

Mild Punishments Sour & Policy :

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OBSERVATIONS

ON THE

L A W S

RELATIVE TO

DEBTORS and FELONS.

With an Account of the FRAUDS practised by
SWINDLERS, SHARPERS and others.

A L S O

Some CLAUSES necessary in any future INSOLVENT
ACT ; and a PLAN for the Relief of Poor Distressed
FAMILIES and others.

By WILLIAM SMITH, M.D.

Have Patience with me, and I will pay thee all.
MATTH. XVIII. 29.

L O N D O N :

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OBSERVATIONS

ON THE

L A W S

RELATIVE TO

DEBTORS and FELONS.

IN every kingdom the penal laws make so considerable a part of the system of legislation, and are of such importance to the peace, happiness, and security of every individual, that an imperfection in them is most severely felt, and threatens destruction to all ranks of people; as the crimes of which they take cognizance have a direct tendency to dissolve society, and plunge it into a chaos of confusion.

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The many highway robberies and burglaries committed in this metropolis and its vicinity, are circumstances exceedingly alarming, and require a particular exertion of the legislature to enforce some expedient to secure the lives and properties of people from the inroads of those desperate violators of the laws. This is a most palpable truth, an observation which does not escape the most ordinary capacity, and people become weary of suffering from these alarming evils. The numerous disorders arising from defects in the system of our penal laws, and the frauds and inconveniencies from the cruel, rigorous, and impolitic custom of confining debtors so long in prison, will no doubt induce the legislature to correct the laws, and substitute others more adequate to the end for which laws are enacted, before the evils complained of arrive at that extremity, which must necessarily produce a change.

It is the common interest of mankind that crimes should not be committed, and that wicked people should not enjoy the fruits of their vice; but as it is impossible to prevent entirely all disorders, and to reduce the unruly passions and infirmities of human nature to perfect order, punishments become absolutely necessary for the well-being of society; yet the punishments or means made use of by the legislature to prevent and to punish crimes, should be as well adapted to promote the general good as human knowledge can devise. And when experience demonstrates to us
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the inefficacy of our laws, that they are inadequate to the ends proposed, most assuredly they ought to be abolished, and new laws substituted in their place. For the social compact requires reciprocal duties from king and people. Every individual is bound to preserve the laws of that society of which he is a member; and the Sovereign or legislature, who represents that society, is bound by the same covenant to secure the lives, liberties and properties of each member by wholesome laws and regulations. And happy are the people, where the duty and inclination of the sovereign equally co-operate for the public good, by abrogating laws contrary to the end for which they were intended, and enacting others, which may secure to the subject an enjoyment of that protection from the shocking chain of evils, which the laws of a well-governed state ought to provide for its subjects; whereby we shall be able to steer thro' life without those dreadful apprehensions of being untimely summoned from our existence in this life, by the barbarous assassin, of having our property invaded by robbers, or snatched from us by swindlers.*

As every one is interested in the welfare of his country, and all who wish its welfare have a right to offer their advice upon such national subjects as concern the whole collective body, any attempt to obviate the inconveniencies arising from the defects of our present system

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* Persons who procure money or goods under false pretences.

of laws, respecting criminals and debtors, must be interesting, and preclude all apology for this feeble endeavour to engage the attention of the public to so useful a subject: when that is obtained, it is to be hoped that humanity will find a way to soften the rigid severity of the law, without facilitating the road to transgression: when compassion and humanity rouse in the breasts of our senators that philanthropy which they conspicuously discover upon many occasions, and wing it with speed through the iron grate into the horrid dungeons of misery where prisoners lie confined, then we may soon hope to see laws less sanguinary, but better adapted for the punishment of transgressions, than at present experience discovers them to be. When the parliament are made acquainted with the deplorable havoc long imprisonment for debt occasions, and the number of families ruined by vexatious arrests, they will obviate the calamity by methods which their wise discernment will suggest, to secure the interest of commerce and property, and to prevent the honest industrious, though unfortunate debtor, from suffering, while the fraudulent find ways to escape.

It is well known that in all plans of improvement, where the welfare of the kingdom is the object, the spirit of the nation acts as one man in promoting the undertaking. Here there is no foundation for difference in opinion. All men must wish well to the community

munity to which they belong ; and their own interest being intimately blended with that of the society of which they are parts, they cheerfully aid those who demonstrate a willingness to promote both ; and as soon as the public are convinced that any plan has the good of society at large as its ultimate end, such a measure is sure to meet with support from the people.

The numerous laws which have been fram'd to bind men to the rules of honesty and equity, in the course of their social intercourse with each other, heavily oppress the honest, while the fraudulent find no difficulty to evade them. The obvious disproportion and severity in our criminal laws have long called for the calm and deliberate revial and consideration of the legislature, and the present period seems very favourable. The lovers of their country and friends of human nature must all wish for such alterations in this branch of our laws, as may, consistent with reason, justice, and the principles of our constitution, moderate their rigour, and reform the morals of the people by wise preventive regulations ; for laws which only operate in the prevention of crimes, by cutting off the delinquent, do not go deep enough for the purpose of reformation ; whereas prudent provisions to correct the morals, and proper punishments that counteract the principles of criminality, will have sure and lasting effects. But without
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such provisions, we may make endless alterations without ever attaining the end desired.

The severity of our criminal law might perhaps be very proper in the days of Gothic tyranny and ferocity of manners; but at this period of civilization and refinement, a milder mode of punishment would be more adequate to the end proposed; and as the exigencies and vicissitude of things gave rise to all laws, the same causes have an equal and necessary claim for the amendment of the old, (when they cease to answer the ends proposed) and for enacting new ones. Our laws are framed rather with a view to punish delinquents than to reform them, and seem better calculated to keep slaves in awe than to govern free men: they contradict all notions of justice, and confound all distinctions of morality: the bosom of humanity heaves with agony, and the spirit of religion turns with horror from so bloody precepts, and pronounce them contrary to the doctrines of our blessed Saviour. The Almighty desireth not the death of a sinner, but that he would turn from his wickedness and live; but our laws cut him off in the bloom of his youth and full career of his sins, and thereby render both repentance and reformation impossible. It is the triumph of liberty (says Montesquieu) and of reason too, when criminal laws proportion punishments to the particular nature of each offence. From the severity of our punishments many decline to prosecute, and suffer criminals to go unpunished,

nished, rather than be the instrument of punishing them too severely: for by the nature of our law, a criminal must escape without any punishment, or undergo a sentence too grievous and severe for the offence. The judge, in capital cases, must pronounce the sentence of the law; and even the Sovereign has not a power to alter it, though he may remit it by pardoning the offender.

The different degrees of crimes are confounded, when capital punishments are, with indiscriminate severity, inflicted upon crimes, however distant in point of criminality; and the most trivial delinquencies are ranked in an equal degree of guilt with the most enormous crime. The delinquent who steals from his neighbour secretly, without putting him in fear of his life, more than the value of twelve pence, (a law made at a time when twelve pence was of more value than £.3 is now) is doomed to death, and no greater punishment is inflicted upon the wretch who murders a whole family with the most cruel and bloody ferocity; they are both condemned by one common sentence, and executed upon one accursed tree, than which nothing can be more opposite to natural reason: for if an equal punishment be annexed to two or more crimes, that injure society in different degrees, there is nothing to deter men from committing the greater, as often as it is attended with greater advantage. The thief gradually becomes familiar with dishonesty; and
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the punishment being the same for a small theft as for a greater, he will naturally steal as much as he can, and at last will not scruple to become assassin, to prevent detection.

Security and liberty restrained by laws are the basis of happiness; and certainly the most perfect freedom which any reasonable man can desire, is to be governed by law, and to see pains and penalties inflicted impartially upon the transgressors of it.

The excellency of our constitution is acknowledged and admired all over Europe; and all nations envy that kingdom which Liberty has chosen for its own, and where she so securely resides; yet the nearer any government advances to perfection, the sooner are its imperfections discovered, and the more severely are they felt, which is the case in England, where it must be confessed that something is still wanting to perfect our system of legislation. It must cast a stigma upon the excellent code of laws, of which this country so justly boasts, to perceive by daily experience, that those laws are insufficient to protect even in any tolerable degree, our lives and properties from becoming sacrifices to fraud and perfidy, and to the abandoned miscreant, whose life, in his own estimation, is not of more value than to stake it against the uncertain chance of gaining perhaps not more than may be sufficient to defray the expence of a few hours nocturnal gratifications at a brothel. Amidst all the blessings we enjoy, we cannot help

help lamenting the want of that safety of our lives and properties, so much complained of; and alarming as these facts appear, yet it is more alarming, that almost a total inattention is paid to the public welfare by those men whose honour, humanity, patriotism and duty, call upon them to remedy such evils.

Crimes, such as murder, robbery, house-breaking, forgery, &c. destroy the security of the lives and property of individuals, which is the principal end of all society, and to which every individual has an undoubted claim: in such cases the crime is committed against the public, and every member has an inherent right to see the laws enforced on the offender; and if the laws be insufficient for the prevention or punishment of such crimes, every individual, either in his own person, or by his legal representatives, is justified in complaining of the injury received, which is an attack upon the fundamental rights of society, and to call for an amendment of the laws. Montesquieu says, "that the liberty of a citizen principally depends on the excellency of the criminal laws;" and as we boast of liberty for the principle of our constitution, we ought to be particularly solicitous to carry our criminal laws to as great a degree of perfection as human policy is capable of advancing them.

Besides murders, burglaries, &c. it is a known truth, that people suffer more in this kingdom, and particularly in this metropolis,

by false weights, unjust measures, and adulterated provisions, (which occasion the death of thousands) than in any country or city in Europe. If the magistrates please to take this matter up, and resolve to remedy the abuses, they shall be made acquainted with them; till then it would be unnecessary to enumerate them.

A very prejudicial lethargy has long prevailed concerning our police, and errors accumulating through so many centuries gain strength from age; people follow established customs without examination, and the most simple, self-evident and useful truths, escape our attention by contrary habits.

The timidity, ignorance and short-sightedness of some, and the dread of alterations and indifference to public concerns in others, made us tamely acquiesce so long under institutions which the judgment of every reasonable man must condemn. Our lawgivers are deterred by the numberless obstacles which oppose the subversion of errors established by the sanction of time.

I am well aware of the difficulties that may attend any alterations in our bankrupt and criminal laws; but if the poor honest, though unfortunate debtor, be torn from his homely habitation, and hurried, with unfeeling insolence, to a loathsome prison, there to languish under oppression, extortion, hunger and disease, whilst the fraudulent debtor makes the

gaol

gaol an asylum, where he lives in riot and extravagance, in defiance of the honest creditor; if fraudulent evasions of the law are reduced to a system; if litigious arrests and the frequency of perjury render every man's life and property in danger; if by a bad police we level the road to vice, and our prisons are become nurseries for thieves and prostitutes, houses of misery and oppression, and hot-beds of disease, where filth and nastiness accumulate to a degree to threaten contagion, and every species of immorality reigns triumphant; if our gaols are by no means sufficiently large, and properly divided into apartments to accommodate such a number of prisoners as are sent to them, and husbands, wives, daughters and sons, sometimes lie in one bed; if the punishments now in use are not adequate to the evil, and our laws do not answer the end proposed; if no effectual method be adopted to prevent unhappy wretches from dragging one another into the vortex of iniquity and perdition; if death itself be scorned, and, in the manner it is now inflicted, does not intimidate the profligate, whose fears are absorbed in the pursuit of their wicked course of life, which is a matter that comes home to every one's door, as it operates against the peace and safety of all ranks of people; if the humanity and compassion of our judges (from a conviction, no doubt, that our penal laws are too numerous) restrain them from exerting the full rigour of the laws as they now stand,

or putting greater numbers to death ; if the punishment of a criminal be like a game of hazard, where he has thirteen chances for escaping, for one of being punished, and from the womb of uncertainty of punishment, the frequency and atrociousness of crimes spring, and vice gains strength ; if clemency and pardons, the noblest prerogative of the crown, are a tacit disapprobation of the laws, and should be excluded in a perfect system of police, where compassion to an individual proves so dangerous, where the interest of community is concerned ; if, to shew that crimes are sometimes pardoned, and that punishment is not the necessary consequence, not only nourishes the flattering hope of impunity, but is the cause of their considering every punishment inflicted, as an act of injustice and oppression ; if the king, in pardoning, gives up the public security in favour of an individual, and by ill-timed compassion proclaims a public act of impunity, and prostitutes mercy by acquittances ; if by punishing all crimes alike, we counteract one principal purpose of the legislature, which is to prevent crimes ; if the vulgar saying, *Save a thief from the gallows, and he'll cut your throat*, be verified in as many instances as there are commitments to Newgate and discharges at the Old Bailey ; if banishment be both impolitic and ineffectual ; it is high time to think of a method more likely to protect the innocent and punish the guilty, to bring the malefactor

lefactor to reason and a sense of his crime, to preserve the community from the bad effects of his wickedness, and to restore him again to the world an useful member of society.

The political intention of punishment is not to hurry unhappy wretches in shoals to the gallows, but rather to terrify and be an example to others, that no hopes of impunity should induce others to commit the same offence; because the number of those, who from fear observe the laws, are much greater in every state, than of those who do the same from a sense of duty.

The proper object then of jurisprudence is by salutary regulations to prevent the commission of crimes; but instead of endeavouring, by judicious regulations and a proper mode of punishment, to reclaim the guilty, and provide for the peace, safety and good order of society, by punishments bearing as nearly as possible a proportion to the offences committed, and by the prudent and timely correction of slight offences, to prevent the commission of more enormous crimes, we hurry the offender out of the world, and deprive society of a citizen, or suffer him to escape without any punishment. If these facts be allowed, (and no one will, I believe, undertake to disprove them) then an enquiry into our laws is now become absolutely necessary, and the importance of the subject will prevail upon those who value the interest and safety of community to attempt it.

To

To bring about the happy reformation so much wished for by every man of feeling and humanity, nothing is wanting but to engage the attention of those, who in a particular manner lie under the ties of interest and duty to reform those laws that stand in need of it, that our system of legislation may have that excellency and perfection which the distinguished abilities of our senators and judges are qualified to accomplish.

If our judges, with whom the discretionary power might be entrusted, were authorised to commute punishments, or alter the sentence of death which law now directs, for crimes not very atrocious in their nature, to lonely confinement and labour of longer or shorter duration and severity according to the circumstances or degree of criminality, every inconveniency complained of in our criminal laws would be obviated, without entering upon that arduous task of making an entire alteration and reformation of our penal laws.

To know an evil and its causes is one step towards a remedy; therefore I shall endeavour to investigate the cause of the evils we complain of, and with great deference and submission point out what appears to me likely to prove a remedy for them, as far as the nature of things will admit, that the legislature may apply their healing powers.

Yet it is not within the reach of human wisdom and foresight to provide remedies against every evil contingency; the most that can be done

is to guard against the greater evils, and in doing so some smaller inconveniencies may arise. No man can foresee and obviate every species of fraud which the subtlety of a wicked man may practise in the course of civil transactions, in defiance of the laws. The clauses which I shall mention towards the conclusion of this publication, when I come to treat of the laws respecting debtors, will, however, obviate the present fraudulent practices and evasions of the law, and break down the whole swindling system now in use. In future time, when the ingenuity of dishonest and evil disposed men has fallen upon new devices to evade the force of the law to their own emolument and the injury of community, let the law obviate the evils by additional clauses and provisions.

In this part of my enquiry I shall be under a necessity of mentioning some very iniquitous practices; yet I would rather wish to draw a veil over so horrid a picture of depravity, if I was not fully persuaded that it is doing a public service to expose such villainy, that some effectual remedy may be applied for its prevention, and that the honest trader and others may be guarded against the almost inconceivable schemes and methods of imposition successfully practised by swindlers. If the legislature do not take this matter under consideration, I believe an account of the villainies practised in this metropolis, laid before the public, would prevent many
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from falling into the snares laid for the innocent, unthinking, and inexperienced part of mankind, by a dangerous set of sharpers, the very pests of society, who hunt on the public for prey, and, Satan-like, go about seeking whom they may devour. They frequently form into societies or confederacies, to defraud the honest trading part of the community, and their plans are often concerted with a great degree of art. As I design to confine myself to the fraudulent evasions of the law, several kinds of sharpers, as those who make use of their wives to extort money from the terror of a criminal prosecution, &c. &c. shall be passed over at present.

I shall in the first place glance at some of the most remarkable defects and grievances arising from our present system of penal laws; and if we neglect the means of preventing evil, after all that can be said, we must remain guilty of the blood we shed, and of the evils which arise in consequence of such neglect. Let the legislature, against whom the charge will come, consider how they can answer for it, when the omniscient and most omnipotent Judge of all will put the question. The supreme Legislator will not declare them profitable servants who expose all the members of a state to cruel laws, to obviate evils which the laws themselves create; who first make delinquents, and then punish them. The practice is both inhuman, unchristian, and impolitic.

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All punishments ought to tend towards the good of society, reparation to the injured, and the amendment of the offending party; and every wise legislature will enact criminal laws rather to prevent than to punish crimes. One preventive regulation is more valuable than twenty penal statutes, which are already too numerous, and militate against the great end of social good; and every day's experience shews, that the punishments we now inflict have lost their efficacy. We attempt to punish and reform the wicked, to prevent theft and robbery, and to secure the lives and properties of individuals, by means as ineffectual and ill qualified to answer the end, as a sieve is to hold water; and if we go on in the present course, it certainly must soon be a crime to be honest, and London will become little better than a den of thieves. Surely it would be better to abolish all law, than thus to sport with them, and enforce them with such uncertainty, that a man may or may not be hanged for a certain crime.

In all civilized countries where there is a good police, the person and property of every individual is held sacred, and preserved secure; but here every robber may despoil with impunity, and even the murderer who emburies his hands in the blood of his fellow creature, too often escapes unpunished.

Good laws should be strictly observed, and bad ones abolished, that the security of person and property, one intention of society, may be obtained.

To say that our laws are good, and yet to decline the execution of them, cannot be justified, nor is such a conduct to be expected from so distinguished a bench of judges as now fill our courts of law, when we have the honour to boast of some of the ablest lawyers that ever lived in this, and perhaps in any other country. We have likewise some very active magistrates in the commission of the peace. An active magistrate, in every station, is a blessing to society, and an ornament to human nature; but I am sorry to think there are some who disgrace both, and too frequently shew that it is not always the best way to *set a thief to catch a thief*.

The humanity of our judges and juries, and their unwillingness to proceed to condemnation; the reluctance too which our Sovereign discovers when he is to sign the death warrant, even of the most unworthy of mankind, prove that our laws are too severe and numerous, and place too little value upon the life of a malefactor.

Our most eminent lawyers, for many years, have bitterly lamented the frequency of executions. Lord Coke says, what a lamentable case it is, that so many Christian men and women should be strangled on that accursed tree of the gallows. If in a large field a man could see at one view all the Christians together, that in one year only, throughout England, come to that untimely and ignominious death; if there was any spark of grace or humanity

manity in him, it would make his heart bleed with pity and compassion. Yet, till other punishments are substituted in place of death, frequent executions are absolutely necessary. He then proceeds to shew, that the method of preventing crimes is, first, by training up youth in the principles of religion and habits of industry: secondly, in the execution of good laws: thirdly, in the granting pardons very rarely, and upon good grounds. The consideration (says his lordship) of this prevention were worthy of the wisdom of parliament; and in the meantime, expert and wise men to make preparation for the same, that God may bless them. Blessed shall he be that layeth the first stone of the building, more blessed that proceeds in it, most of all that finishes it, to the glory of God, and the honour of our king and nation.

The first stone of the building will be laid by the present gaol bill, one intention of which is probably to introduce labour into gaols: the plan is noble, extensive, merciful and politic, and, I doubt not, will receive the generous support and encouragement of all who duly consider it. At present our gaols are very unfit for labour; and as they now are, it would be a very difficult thing to introduce it; but there is spirit, virtue, and sense enough in the nation, to remedy that unconveniency. We have plenty of common-land contiguous to each county town, where gaols may be built, inclosed by a moat, and made

made fit for labour; the adjoining ground may be cultivated, and the roads kept in repair by the felons, &c.

Whoever gives himself the trouble attentively to consider this subject, (and a most important one it certainly is) will be convinced, that to regulate the internal government of gaols, to introduce punishments proportionated to the crimes, and to make these punishments profitable to the public, will be of the greatest national utility. Some expence must necessarily attend it at first, but that can be no object, compared to the importance of the design. While some thousands are expended in building noble town-halls, splendid assembly-rooms, play-houses, &c. it is impossible to conceive that any town or county would refuse a few hundreds to forward such an undertaking. The following is an estimate of the profits and expences :

2 head inspectors to visit twice a year	}	To be nominated by parliament, with salaries as they shall appoint.
1 inspecting physician to visit once a year, to reside in London, and to visit the gaols in and about London frequently, and as occasion requires		

		Salary per Ann.	£.
5 deputy inspectors -	} visit to	Six times a year	500
25 under inspectors -		Weekly	1500
1 ditto for London, Westminster, and Borough of Southwark		Weekly	100
			2100
20 per cent. discount on £.16250			3250
Expences of under-officers			5350

The

The district or division of each deputy inspector.

1. Lancashire, York, Westmoreland, Cumberland, Durham, Northumberland, Berwick.	Kent, Berks, Middlesex, Oxford, Buckingham, Hertford, Essex, Bedfordshire, Huntingdon, Cambridge, Northampton, Suffolk, Norfolk.	Nottingham, Derby, Shropshire, Staffordshire, Cheshire.
2. Cornwall, Devonshire, Somerset, Wilts, Hants, Gloucester, Dorset.	4. Hereford, Worcester, Warwick, Leicester, Rutland, Lincoln.	5. Pembroke, Carmarthen, Glamorgan, Monmouth, Brecknock, Cardigan, Montgomery, Merioneth, Carnarvon, Anglesey, Denbigh, Flint, Radnor.
3. Suffex, Surry,		

The district or division of each under inspector.

1. Kent, Suffex.	6. Surry, Middlesex.	11. Hertford, Essex.
2. Berks, Hants.	7. Oxford, Buckingham.	12. Norfolk, Suffolk.
3. Cornwall, Devonshire.	8. Bedford, Northampton.	13. Shropshire, Cheshire.
4. Somerset, Dorset.	9. Hereford, Worcester.	14. Lincoln, Nottingham.
5. Wilts, Gloucester.	10. Stafford, Derby.	15. York, Durham.

16. Lan-

16. Lancashire, Westmoreland.	20. Glamorgan, Monmouth.	24. Denbigh, Merioneth, Flint.
17. Cumberland, Northumberland.	21. Brecknock, Cardigan.	
18. Warwick, Leicester.	22. Montgomery, Radnor.	25. Cambridge, Huntingdon, Rutland.
19. Pembrokeſhire, Carmarthen.	23. Angleſey, Carnarvon.	

When executions become leſs frequent, and we find a mode of puniſhment without transportation, then the number of felons in gaol will increaſe, but the profits ariſing from their labour will bear a proportionable increaſe. There are near three thouſand felons in all the gaols in England; but ſuppoſe there are only two thouſand five hundred, that number at 2s. 6d. a week each, clear of all expences, will produce £.16250; and if each ſet of inſpectors be allowed 5 per cent. diſcount on the profits ariſing from the labour of the felons, it will then be the intereſt of the inſpectors to procure employment for them, and to be careful to ſee it performed; but without ſome advantage from the labour, they would be negligent to procure work for the priſoners, and inattentive to ſee it properly executed.

When a man's duty becomes his intereſt, he may then be truſted; but where intereſt either oppoſes, or receives no addition from diſcharging

discharging the duties of an office, a man of principle and honour will not indeed neglect it, but it cannot be supposed that he will go about it with a very hearty zeal; and one without either honour or principle will neglect, or do it imperfectly, or abuse his trust, and convert it into clandestine practices, whereby he may be enabled to promote his own interest, and increase his emolument: therefore it would perhaps be better to allow 10 per cent. discount to an active inspector, and to deprive another, who discovers a contrary conduct, of every advantage from the labour of a felon.

By putting felons to work at home, besides the advantage of saving so many lives to the state, removing the burthen of transportation contracts, and the present impracticable scheme of confining them in hulks on the Thames, there will be a clear profit of £.10900, out of which the salaries of the two head inspectors and physician are only to be deducted. This is a very moderate calculation of the profits, and not mere speculation, for there are people to be found to undertake and to reduce it to a regular method in two or three years. And if part of the profits be laid out yearly to enlarge the gaols, every thing then might soon be brought to perfection.

He who disturbs the public tranquillity, who does not obey the laws, who violates the conditions, on which men mutually defend and support each other, ought no doubt to be separated from society, and punished.

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The greatest blessing a man can possess on earth is a disposition to do justice; but as human nature is a compound of reason and passion, the latter impelling to some immediate gratification, or apparent good, without any regard to their own future safety and interest, and the rights of others; while reason and reflection feebly oppose these impulses, and endeavour to counteract them by directing our actions to right ends; we ought to strengthen and support reason's powers, by judicious laws and equitable punishments, whereby it may evidently appear that it is every man's interest to be just, and that a wicked man must be a foolish man, because his wickedness will not remain long undiscovered, and when discovered, will meet with its due reward of punishment. But by impunity and the uncertainty of punishment, wicked men, when they have conquered their first apprehensions of danger, grow familiar with terror, and become every day more wicked, till at last being totally corrupt and abandoned, they are confirmed in the habit of evil.

When the laws are executed with so much uncertainty, that a man may or may not be hanged for a certain crime, he grows more audacious, in proportion to the chance he perceives of escaping with impunity. He hopes he may transgress undiscovered; and if he be detected, he expects to be more fortunate in time to come; when found guilty, he still hopes he shall not suffer. He carefully collects

collects every circumstance that is in his favour, and compares his case and the evidence against him with the case of another who has escaped, though guilty of the same offence. From these considerations he hardens his heart against fear and repentance.

The uncertainty of punishment sacrifices many more lives than the certain and uniform execution of the most rigorous laws would do. It is repugnant to the dictates of reason and justice, diametrically opposite to the principles of our constitution, is the cause of the frequency of crimes in this kingdom, and tends to corrupt rather than to reform the morals of the people.

The certainty of a small punishment will make more impression than the fear of one more severe, if attended with the hopes of escaping; for it is natural to mankind to be terrified at the approach of the smallest inevitable evil, whilst hope, that cordial and support of life, hath the power of dispelling the apprehension of the greater, especially if supported by examples of impunity. Upon the generality of people remote consequences make but little impression; and men do not in general commit great crimes deliberately, but rather in a sudden gust of passion, and they commonly look upon the punishment due to great crimes as remote and uncertain. When wicked passions are pressing and powerful, the violence of the passions, which present to the imagination nothing but the advantages

which the wicked expect to reap from their successful villainy on one hand, and the delusive hopes of concealment or impunity on the other, efface suddenly the slight impressions that the dread of future punishment in another world, however awful and formidable to a cool and considerate man, may make. Death has not in it that degree of terror to a wicked and necessitous man, as it has to a man of virtue and reflection, who lives in plenty, and at his ease.

The wicked are willing to set their lives on any chance, either to mend or get rid of them. "Come, (says the robber) I cannot submit to work, I will try to get my fortune at house-breaking, footpad or highway robbery; I may escape, and enjoy the fruits of my ingenuity: if I be caught, perhaps I may be acquitted, and if condemned, may be pardoned; and at last, if I must be executed, my pain will only be momentary; and as to future punishments, let priests and old women terrify themselves about that matter: I have read many books which make light of such notions, and bid me believe that religion is an invention of man, to keep courageous and ingenious people like me in awe." But when he knows that he must certainly suffer punishment for a length of time in this life, the mind will be naturally drawn to make an useful comparison between the certainty of those evils which he must suffer, and the uncertainty of his success. When the flattering hopes of impunity are destroyed, and the

the law annexes to each crime a punishment as certain as the transgression, then transgressions will be less frequent.

When the criminal is convicted, no power or interest whatever should set aside the execution of the law. The prince and the executors of the law should then be inexorable; but the law, at the same time, ought to be mild, judicious, and effectual; for it is not the lenity of laws, but the impunity of crimes, which multiplies offenders. Slight penalties and corporal punishments properly enforced for small offences, as petty theft, and all offences *contra bonos mores*, which lead to the commission of enormous and capital crimes, would make a greater impression than capital punishments; and by deterring men from the smaller, would effectually prevent great enormities, and obviate the necessity of severe and sanguinary punishments. The smallest offences and first incentives to guilt should be strictly punished, and carefully prevented; for, as Juvenal says, *nemo repente fuit turpissimus*. Habitual, daring and hardened wickedness, is acquired insensibly, and by time, as other habits are formed; for man does not become desperately and obdurately wicked all at once.

Pardons may be the act of good nature, yet I cannot tell how far a king may dispense with that safety and retribution to which the public are entitled, for the injury society have received by the crime already committed, and the necessity there is that criminals should in their

punishment be an example or warning to others. Besides, why should the public be subjected to the continual apprehensions of the danger they lie under of having their peace interrupted by the future misconduct of the offender? The king certainly gives up the rights and interest of community entrusted to him in every pardon he grants. The right of punishment belongs to the society at large, virtually represented in the person of the Sovereign, who may renounce his own portion of that right, but cannot so well give up that of others. The care therefore of the legislature should be, not to pardon, but to adapt and proportion punishments, as nearly as may be, to the different degrees of offence; and when crimes and punishments bear a just proportion to each other, there will be no occasion for pardons.

Punishments should be as analogous to the crime as possible, that the mind may be thereby directed to consider the crime in a different point of view from that in which it was placed by the flattering idea of promised advantage.

The most effectual means to prevent the wickedness of individuals from opposing the general good, and making lawless depredations on the public, would be corporal punishment for slight offences, and lonely confinement, hard labour, water and spare diet, for greater crimes. If criminals were punished by hard labour, which they dread as the greatest of all evils, the crime and punishment would then bear

bear some analogy, and the lively impressions such punishments, continually presented to the view, would have upon the passions of others of similar dispositions, would powerfully operate in restraining them from committing crimes which they knew would certainly incur the same punishment.

When the seducing picture of advantage from the commission of a crime, necessarily awakens the attendant idea of punishment; when criminals under punishment for the same or like transgressions, are constantly in view, the horror of such a terrible sight would affect the minds of the spectators, and greatly contribute to heighten the idea of the punishment, which they see is the necessary consequence of the crime. It is not the intenseness of the pain, or terribleness of punishment, that has the greatest effect upon the mind, but its certainty and continuance; for our sensibility is more easily and more powerfully affected by weak but repeated impressions, than by a violent but momentary impulse. "If I commit such a crime, (says the spectator to himself) I shall be reduced to that miserable condition for the rest of my life."

The contemplation of continued suffering, and the example of a man deprived of his liberty, condemned as a beast to repair by his labour the injury he has done to society, will impress more terror, and be a much more powerful preventive than the fear of death, which men always behold in distant obscurity.

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The terrors of death make so slight an impression, that it has not force enough to withstand the forgetfulness natural to mankind, even in the most essential things, especially when assisted by the passions. Violent impressions surprise us, but their effects are momentary. But no man, upon reflection, would put in competition the total and perpetual loss of his liberty, with the greatest advantage he could possibly attain in consequence of a crime. Perpetual slavery then has in it all that is necessary to deter the most hardened and determined, as much, nay more, than death.

There are many who look upon death with intrepidity and firmness, from a desperate resolution and effort of the mind, which, by collecting itself, and uniting all its force, can for a moment repel assailing grief. Felons endeavour to prepossess one another with a notion that it is both brave and meritorious to die boldly, or, as they term it, *to die hard*; and the last advice which the wicked associates give the criminal going to execution, is to die like a man; but that furious enthusiasm would soon forsake him when confined to hard labour for life, and despair seems rather the beginning than the end of his misery.

The most vigorous efforts of the mind are insufficient to resist perpetual wretchedness, which, like a moth, gradually consumes and eats away the soul of a man; and while he suffers the punishment due to his crimes, he affords a frequent and lasting example to others,

others, and people are constantly witnesses of the power and terrors of the law, which are more awful to the spectator than even to the criminal himself, who by habit becomes in some measure callous to misfortune, while the spectator considers the sum of all his wretched moments which are increased by the imagination, and he judges by his own sensibility of what passes in another's mind.

Again, the intention of punishment is to reform the criminal, to prevent his doing further injury to society, and to deter others from committing the like offences. Such certain punishments therefore, and such a mode of inflicting them, ought to be chosen, as will make the strongest and most lasting impression upon the minds of others, and have a natural tendency to create sentiments of justice and rectitude in the heart of the offender, which are all the result of impressions on the senses; for pleasure and pain are the springs of action, and incite men to various pursuits. But our present mode of punishment has so little effect upon the minds of these unhappy people, that they concert robberies and burglaries in the cells, when they visit their associates under sentence of death. The ends of punishment therefore, the amendment of the delinquent, and the terror of example to others, are defeated by our criminal law.

In place of reforming the offender by proper correction, we cut him off from the face of the earth; and that the public may not benefit

benefit by the example of his punishment, being long presented to their view, that the mind may have time to reflect and receive a deep and lasting impression, we hurry the criminal out of the world with all the dispatch imaginable, or send him where his punishment cannot be seen by the people where the transgression was committed.

The number of criminals put to death in England is much greater than in any other part of Europe; but the experience of ages sufficiently proves, that the punishment of death does not prevent men from injuring society, and has so little influence on community, that delinquents are frequently hardy enough to transgress the laws, even when malefactors are expiring before their eyes, with all the dreadful circumstances of agony and infamy. If then the punishment of death be not really useful, and necessary for the safety and good order of society; if it does not answer the ends proposed by the laws; if it has no influence on society, let our mode of punishment be altered, we have persisted long enough in an error.

Who does not tremble at the thoughts of hurrying so many unhappy wretches into eternity, while the frequency of pardons supported their spirits, and prevented them to the last moment from thinking upon their melancholy situation?

It is a fundamental principle of good legislation rather to prevent and reform than to punish

punish and execute. But that kind of punishment which has for its end the amendment of the criminal, cannot be extended to death, as that intention is absolutely defeated by putting him out of the world.

If the strength and riches of a state consist in the number of its inhabitants, those punishments which remove a member out of community are impolitic, because they diminish the power and wealth of a kingdom, and weaken the whole body; but wise regulations and judicious proportionate punishments strengthen society, by obliging every individual to practise the duties of honesty, sobriety and industry. It ought therefore to be the principal care of the magistrate, by every mild institution and encouragement, to provide for the increase of population, and employ the subjects to the best advantage, rather than to lessen the number by the hands of the executioner.

Does such policy repair the loss of the sufferer? No! On the contrary, the individual wronged receives no recompence, but, to the loss of his property, has the additional expence and trouble of prosecuting the offender. But if the offender were confined to hard labour, till by the profits of it he had made some recompence to the injured party, according to the nature and degree of the theft, and made reparation to the state by the example of his punishment, people would not discover such backwardness to prosecute. Every expedient

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should

should be tried to work a reformation before we proceed to that extremity of taking away the life of a fellow creature. It appears to be the most unpardonable rashness and injustice to consign a criminal to death as incorrigible, perhaps upon the first offence. Necessity alone can justify the taking away the life of another, but that necessity does not appear till we have in vain tried every rational means to work a reformation, and preserve the safety of the state, while the offender continues a member; or till the delinquent, by some very atrocious transgression, as murder, &c. plainly proves that he is too wicked and dangerous to be entrusted with life any longer. The law of God says, *Whoso sheddeth man's blood, by man shall his blood be shed.* And in another place, *He that smiteth a man so that he die, shall surely be put to death.* Therefore murder, and some other very atrocious crimes, should assuredly be punished by death. Let never-failing vengeance await the murderer. But to execute criminals for the first and for all offences, has a very bad effect upon the minds of people, by depriving them of the means to judge of the different degrees of criminality.

Executions should be rare; but when they are, let them be slow, painful and solemn. A malefactor put to death in the ordinary way of execution, is no object of terror even to those that attend and witness it; for those of tender feelings, upon whom the sight of an execution would have a lasting impression,
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do not go to see it. If any idle disorderly spectator be a little frightened, it is only momentary, and ends with the day; for nothing is sooner forgot than the death of a person. The criminal himself is frequently very little shock'd with the approach of death. But executions conducted with external pomp and solemnity a little more adequate to the occasion, would no doubt have a very good effect at once to impress the culprit with some sense of his condition, and those who were disposed to tread in the same vicious path, with a degree of reverence for the law, and a regard for their own safety; but the little regard which is at present paid to outward appearance, the frequency, and indeed the indecent manner of conducting our executions, make them a familiar and indifferent sight, and in place of impressing the minds of the spectators with awe and horror, it serves only as an hour's amusement, and gives pick-pockets an opportunity of practising their art.

Transportation is another very injudicious and impolitic punishment. When we transport a felon, community do not profit by the example set them by his punishment, and he is dead to his country; besides, transportation carries no terror in it to him; on the contrary, many wish for it. They are told of the richness of the climate in America, the indulgence that some of them meet with from their masters, and the fortunes that transports

sometimes acquire ; all these considerations reconcile the felon to transportation.

But when there is a necessity to transport felons, if they were sent to Africa or the East-Indies, which are graves to so many of our people, there they would find very different treatment, and might be rendered useful to society, without having it in their power to do hurt, as they would be confined within the walls of a garrison, there to endure the fatigues of labour and watching, in the sultry heat of an unhealthy climate.

Confinement in prison inflicted as a punishment, where the public have no opportunity of viewing the prisoner, and where he lives in idleness, drunkenness, and every kind of wickedness, is of no service to society, but, as the gaols are at present regulated, proves the utter
ruin of the unhappy wretch.

In gaol, by the edifying conferences felons have with each other, the mystery of iniquity is taught in all its parts. One teaches lewdness and theft, the other the art of picking locks and house-breaking, while the highway-man makes both acquainted with the mystery of his trade ; and the felon leaves a gaol qualified, as occasion offers, for any branch of his iniquitous calling. Can it be supposed that the practice of vice will not be more extensive by such lessons ? And to add to the calamity, the vices of each sex mutually assist each other. Whores and rogues assist one another in carrying on their diabolical machinations.

Besides

Besides mixing debtors, felons, fines, delinquents, vagrants and disorderly people, in one gaol, we send people taken up on suspicion to the same place. To put men and women, atrocious and petty criminals together, is no doubt very dangerous and impolitic; but surely the accused and convicted should not be thrown indiscriminately into the same prison.

The places of confinement for the accused should be distinct from gaols, and under different regulations. Imprisonment before trial being only designed as a means to secure the person of the accused until he be condemned or acquitted, should be as short, and attended with as little ignominy and severity as possible.

In the eye of the law every man is innocent who is not legally convicted of any crime, and he has a right to the public protection till it be proved that he has violated the laws, and thereby forfeited that right. But we treat people taken up upon suspicion of committing crimes, of which they may be, and sometimes prove themselves innocent, as if they were already found guilty; they are fettered, confined amongst convicts, have the same allowance of food, and the same dirty and loathsome den to sleep in, which is both inhuman and unjust.

No man should be used as a criminal before he is found guilty; till then he should be treated with some degree of decency and tenderness; and when he is convicted, let him suffer the punishment ordained by law; but
never

never let it be said any more in a civilized and Christian land, that he is assassinated by infectious air, cold, hunger and nakedness. Such a practice calls forth a blush, for the honour of the nation, in every one who possesses principles of philanthropy and commiseration.

It is better to prevent than to punish crimes, and to check them in their infancy, before they arrive at a certain degree, when there is often no coming at them. Therefore I shall now attempt to discover the first inlets to vice, and point out what would, as it appears to me, prove an effectual means of prevention.

When we come to enquire into the source of crimes, we shall find that the great evils to society arise from idleness, drunkenness, evil company, and bad women.

Idleness infests our streets and highways, and fills our prisons with its votaries; it introduces drinking and bad company, and hurries the unhappy victim into misery and perdition.

Many have not the virtue and resolution to procure the necessaries and conveniences of life by labour and honest industry; idleness, dissipation, and unrestrained indulgence of every unlawful passion, are more agreeable. There is no wonder then that so many should be found pursuing such a course of life.

Idleness is either constitutional or acquired; in either case its progress and consequences are the same. Some, from the early lots or neglect of their parents to give them a due sense

of religion and a dread of corporal punishment in their infancy, become vagabonds, and contract a habit of idleness; others are constitutionally of an idle, fierce, and ungovernable disposition; and many by keeping bad company, for people of similar dispositions associate together, and by cohabiting with bad women, practices in which they are early initiated, become hardened in iniquity at a very early age.

As evils are best remedied by their contraries, therefore labour, confinement, poverty, solitude and temperance, being the strongest and most universal objects of dread and terror to disorderly, idle and vicious persons, which they commit crimes to avoid, will be the most rational modes of punishment inflicted according to the different degrees of delinquency. Idleness and its bad consequences will be most effectually punished and prevented by labour and confinement, joined with shame, which is the next in degree; for the example of suffering guilt, as was already observed, will have a much better effect than the terror of immediate death. And as every man dreads pain, where the degree of criminality is great, and when the criminal, by a course of wickedness, is callous to all sense of shame, corporal punishment, measured by the crime, may supply the place of shame. We see the good effects of corporal punishments in the army. Therefore, when robbery is attended with any act of cruelty, as wounding, maiming, beating,

ing, or stripping the person robbed of his cloaths, corporal punishment, which should always be public, ought for prevention to be added to slavery, that the unthinking multitude may be taught to distinguish the degrees of crimes by the distinctions of punishment.

To say that slavery is contrary to the spirit of our free constitution, is a silly objection, only to be found in the mouth of a fool; for true freedom is only found where life and property are secure, virtue rewarded, and vice meets with a certain and proportionate punishment, and where every son and daughter of Adam by their practice acknowledge that their lives depend upon industry, and that without labour no man can live.

Nothing necessary for life can honestly be procured without labour and the sweat of the brow. What right has any person to expect that the industrious farmer should till the land, to raise corn to support another in idleness; that the manufacturer should work early and late, and waste his strength in labour to clothe him? Injustice is certainly grafted on idleness, and the event must be injurious to society.

Diodorus tells us, that Sabaco king of Egypt, a prince of the most distinguished piety, changed punishments, with good success, into stated kinds of labour.

Society have a right, for a certain time, in proportion to the degree of criminality, to be absolute masters of the person and labour of a criminal, who robs another of his property, in
order

order to oblige him to repair by his labour and slavery the depredations he has made upon others, and thereby to atone for his breach of the laws of society. By such a mode of punishment, the spirit of freedom would receive fresh vigour, and upon this plan a scale of crimes might be formed with a tolerable degree of exactness, and we would be thereby enabled to follow a corresponding scale of punishment.

In order to regulate the degree of punishment, which it is requisite for the public good to inflict for different crimes, a comparison must be made between the different species of offences; and due care should be taken to examine in what degree the public safety or happiness is injured, or in danger by the crime in question.

Public-houses are very near as bad as gaols, in corrupting the morals of those who frequent them. A man who is often in an ale-house will not long continue to be a good husband, parent, master or servant, or an useful member of society in any station of life.

Drunkennes is the source of much evil to community; and when we consider the necessities which intemperance creates, we need not wonder at the frequency of robberies, &c.

As soon as a person learns to drink, he gets into bad company, prostitutes surround him, to them he naturally falls a prey, and they rapidly hurry on his ruin. The necessities of life must be had, and vice is expensive, therefore money must be procured.

Public-houses are the fertile sources of those crimes and calamities which disturb and distress mankind; they are the infernal mansions where every species and degree of vice hold their perpetual residence; where the timid and daring rogue of every denomination, the young and inexperienced, the veteran and accomplished villain, assemble; and the use of strong drink and evil company buoy them up, harden their hearts, keep their minds in a continual hurry, and their heads in a constant state of intoxication.

But as public-houses cannot be abolished, magistrates ought to be very careful and sparing in granting licences, without responsible house-keepers, who have lived in one house at least three years, to answer for the good behaviour of the publican.

All night-houses, which are only places of rendezvous for the profligate, should be suppressed; and all taverns, coffee and alehouses, ought to be shut up at a certain hour.

No gaming should be allowed in public-houses under a high penalty, and even corporal punishment; and no publican should have a right to recover a debt contracted for liquor, under five pounds. This would prevent the bad effect of buying carcases as they term it.

When a tradesman has not money to pay, the publican enquires what kind of workman he is; if he be informed that he is a very ingenious man, he then encourages him to drink till he gets considerably in debt, for which he passes.

passes his note of hand, which the publican sells to some person in the same trade with the debtor, who is obliged to work for his creditor, or go to gaol. By this method workmen are enticed to drink, and inveigled from their masters.

The power and influence of women are astonishing in drawing men astray, and often very effectual, when differently applied, in turning them to the paths of virtue.

Many and grievous evils arise from the promiscuous commerce between the sexes, concubinage, and the immense number of common prostitutes, who increase in impudence as they do in numbers, and violate the laws of decency at noon-day; they bring many unwary young men to the gallows. What parent, what guardian, what master, has not reason to be alarmed at the danger to which the youth committed to their care are exposed! The poor unhappy creatures themselves are often debauched under promise of marriage, which is a most unpardonable crime: for when a woman has lost her character, and is once exposed to public shame, what can she do? Nobody will take her into their house, nobody will employ her.

They are sometimes ruined by artful men, who procure wicked people to swear debts against them which they never contracted. When the poor woman is arrested, which they take care to do at a time when the seducer is in the house, the bailiff hurries her away, and

shuts her up in a spunging-house, where her betrayer hastens with all possible speed, and, from an appearance of friendship and compassion, bails the action. As soon as she is released, he continues constantly to threaten her with the horrors of a gaol, 'till at last he terrifies her into a compliance with his brutal passion.

All things hang together by a chain; small crimes beget great ones, and one vice leads to another as naturally as fire produces heat; each is subservient to the other. Even the ballad-fingers and street-musicians are useful in their spheres to promote vice; and as they may be taken up upon the vagrant act, a zealous magistrate may soon suppress them.

They are frequently hired by thieves and pick-pockets to collect a crowd of people, that they may practise their arts with greater certainty and safety. When they have no ballad-finger or musician to assist them, they pretend to quarrel and fight to gather a mob, while some of their associates are employed in picking the pockets of the gaping crowd.

The ballad-fingers, besides the opportunity they give their employers to steal, are very injurious to the morals of the youth, who listen to their lewd songs till their passions are enflamed; they then retire at a little distance, where they pick up a filthy diseased prostitute, that would lay down to a dog that would bring a shilling in his mouth. From such a beastly, polluted swine, they catch the infection,

tion, of which she is perhaps rotting. They conceal their situation till the disease has materially injured their constitutions; they then apply to some ignorant quack, who, with his farrago of stuff, wounds perhaps the disease, and with it the constitution.

To get money to treat these unworthy beings (for I would not apply the name of women to such filthy wretches) with drink, and to pay them for their destructive and poisonous embraces, they are often tempted to rob their masters, and every day adding to their boldness and vice, they at last arrive at Newgate, or some other gaol, where, as I formerly mentioned, they become perfect masters of every vice, and issue out with that daring ferocity, which qualifies them to break down every barrier which the laws of God and man have prescribed.

Observe who listen to and buy those lewd ballads, and you will find that young people of both sexes, particularly apprentice boys, servant maids, and gentlemen's servants, are the purchasers. They read them with the greatest avidity, and thereby poison their morals, by affording fuel to their turbulent passions. They retail amongst each other the vicious ideas conveyed by these ballads, till they work up their unruly passions to a desire of gratification, which is certain misery and infamy to a woman, and seldom fails to bring the man at last to Tyburn.

Shame,

Shame, in the sex, is a powerful passion; and in the infancy of vice a woman retains some sense of it; but in a gaol she soon loses all ideas of shame or decency, that guard which nature has planted round virtue. Modesty is forcibly drove out of the female heart, and she is laid open to shameless and abandoned impurity.

At first she is shocked at the thought of a gaol, and is then perhaps deeply affected and sincerely sorry for her crimes, fully purposing to lead a new life, and become useful in her generation; but the company with whom she is shut up, being more hardened in iniquity, by their lewd and blasphemous arguments, and by making her the butt of their ridicule, soon stifle those pious thoughts and virtuous resolutions, and drag her back to the pit of destruction.

It is a lamentable thing to find so many of the common people infected with venereal complaints, the bad effects of which are many and grievous to society. It injures the health, and at last ruins the constitutions of the common people, and their offspring are puny and unhealthy. The vigorous race of healthy poor are only to be found in the country, at a distance from populous towns.

The husband spends his money upon dissipated women, from whom he receives disease, and in whose company he contracts an habit of drinking, while his poor wife and family are in want of the common necessities of life.

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In place of money to buy food and raiment, the husband brings home a loathsome disease, and entails the same as an inheritance upon his posterity. This occasions unhappy brawls and quarrels at home; the husband takes to drinking, neglects his business, and becomes a poor, miserable, abandoned wretch. The wife, if young or passionate, losing all affection for her husband, is perhaps betrayed into an unlawful connection with some deceitful friend to whom she unbosomed her grief. She neglects her children, who learn to pilfer and steal, and as they grow up, they become acquainted with bad women, and soon arrive at the gallows.

When we remove the causes which excite unlawful passions, we shall then prevent the bad consequences of them. But as it is impossible entirely to suppress disorderly women, they ought therefore to be put under some regulation, that the public may suffer as little as possible.

The regulation I would propose is to confine them to one part of the town under very severe penalties, and to have a register, where every person's name and the number of the door or room should be entered. This may be done without any public and positive order, by giving the constables express charge to exert themselves in driving those poor unhappy wretches from every part of the town except where it was intended they should reside.

Many advantages would arise from such a regulation; immorality would receive a check, and

and the vigour, health and lives of many of his Majesty's subjects, would be thereby preserved; thieves, highwaymen and house-breakers, would be with less difficulty found out; for wherever a whore lives, there you'll certainly find two or more thieves.

It would also be of service to themselves, for at present many of them lead miserable lives. When they refuse to continue the poor, wretched and brutal slaves (and a miserable slavery it is) of their keeper, the mistress of the brothel, or the person who furnishes them with cloaths, and at the same time have no money (which is for the most part the case) to pay the constable, he, sometimes hired for that purpose, hurries them away to gaol, where they are all huddled together into one cold, dark and nasty dungeon, where by the unlawful demands of the gaoler, who considers the whole of what they possess as his due, they are plundered of what little money they have; and if they have none, are stripped of petticoats, gowns, or whatever part of their dress appears most valuable.

Some gaolers, I am informed, have a large wardrobe of cloaths got in that way. The gaolers fee the constables who bring such wretches, whom they call *game*, to gaol.

Our print-shops lend their assistance to promote vice. The indecent custom of exposing to view, in shop-windows, lewd and infamous prints, is of late become so flagrant, as to be a real nuisance and insult to the modest part of the public. These prints instil the most dangerous

gerous poison into the minds of the youth, and seduce them into the ways of vice, by exposing to their view, in the most open and conspicuous manner, scenes only fit for a brothel. Such a scandalous nuisance should be checked; and if the magistrates do not put a stop to it, every lover of decency has the means in his own hands, by breaking the windows where such sights are presented.

The receivers of stolen goods are the great encouragers of theft and robbery, and are perhaps more hurtful to society than the felons themselves; for without a receiver there would be no thief.

As soon as the stolen goods are brought to the receiver, if plate, he either melts it down immediately, or sends it away; so that stolen goods seldom remain above half an hour, and sometimes not ten minutes in his possession: from one they pass to another, and in the space of a few hours they go through many hands.

When accomplices and receivers are more severely punished, it will increase the difficulty of finding a person to receive stolen goods, and will render the disposal of them very troublesome to many, and impossible to some.

The law should leave fraudulent associates as many ways and temptations of betraying one another as possible, that being so much in the power of each other, a strong diffidence and mutual distrust may deter them from committing themselves to the mercy of one another;

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each person would then be afraid of exposing himself singly to danger. Therefore a general law, promising a reward to every accomplice who discovers his associates, either in felony, or fraudulent conveyances of money or effects, would be better than a special declaration in every particular case.

To make it felony, without benefit of clergy, to receive or purchase stolen goods, knowing them to be stolen, or to purchase, except at a public sale, goods at half their market price, from a person unknown, and not before two respectable housekeepers as witnesses, or to have such goods offered to sale, without detaining the possessors, or lodging an information, would give a very effectual check to theft and robbery.

Every person using a crucible should be obliged to have his name, place of abode, and calling registered; and wherever an unentered crucible is found, the person in whose house it is found should forfeit £.

It should likewise be certain death, as in Holland, or perpetual slavery, to break or force open any lock.

As thieves, house-breakers, &c. commonly begin by stealing handkerchiefs, the sale of single handkerchiefs, which have been in use, should be totally prohibited, and no pawnbroker should be allowed to take them in pawn.

A very effectual means for the prevention of robberies in and about this corrupted metropolis, would be the establishment of a horse and-foot patrol, day and night, well cloathed,
equipped

equipped and paid, as in Paris, and other cities in Europe where a proper police is established. No expences should be spared for public and private safety. The militia of London might be put upon a proper plan, and might partly serve for that useful service, as at Copenhagen, Hamburgh, &c. The watchmen should be relieved every two hours, and the patrollers changed every six. Good cloaths, arms and pay, with short duty, will procure good men. The watch and patrol should be in an uniform dress, under military regulations, but subordinate to the civil power.

That the detection and prosecution of felons may not be a burthen upon any individual, and that it may no longer remain in a thief-catcher's power to take a thief or let him escape, a fund should be raised in each county and large town for that purpose. Many felons, it is supposed, escape by the connivance of those who are sent after them, and because people will not be at the trouble and expence of a prosecution.

Every felon, when discharged, should be registered, and the place of his abode named, from whence it should be unlawful for him to remove above ——— miles without leave, except upon his own or his master's lawful business, and then not without a certificate from the clergyman of the parish to which he belongs, or from a justice of the peace. Any felon out of his bounds should be considered as an outlaw. But liberty to remove from one place to another, or to settle in any other parish or county,

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should always be granted without fee or reward upon a well-grounded application ; and every person, after such application, being denied a certificate, should be entitled to very high damages, to be recovered in a summary manner. And if a felon, upon his removal from one parish or county to another, neglect to enter his name and place of abode, every person should be authorised to take him before a magistrate to be committed to prison, there to undergo the same punishment as for the first transgression. But if he conduct himself honestly and soberly for the space of ten years, he should then be entitled to the enjoyment of every privilege belonging to a British subject.

Having now finished what I intended to say upon the penal laws, I shall next make a few remarks on the laws relating to debtors, which are at present a heavy and cruel burthen upon the honest, while the fraudulent set them at defiance.

There is a necessity by judicious laws to guard against fraud, to preserve good faith in contracts, to support trade, and to secure the property of individuals ; but real humanity and good policy require, to secure the effects of the debtor instead of his person. It is, however, necessary to distinguish between the fraudulent and honest debtor.

The fraudulent debtor or bankrupt should be considered in the same light with him who robs another of his property. To ascertain a due proportionable punishment for such a crime,
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it will be necessary to consider whether it be a fraud attended with aggravating circumstances, or a simple fraud, or a wanton extravagance and inattention to business; and if there should appear some doubt of his being strictly honest, that matter should be determined by the majority of his creditors.

But the honest, though unfortunate debtor, who after a strict examination, has proved before proper judges, that either the fraud or losses of others, or misfortunes unavoidable by human prudence, have stripped him of his substance, upon what barbarous pretence is he thrown into prison, and deprived of his only remaining good, the melancholy enjoyment of mere liberty? Why is he ranked with criminals, and in despair compelled to repent of his honesty, without the least utility to his creditors?

It is well known that a gaol never paid a debt; for the prisoner is obliged to spend that money, which should have gone to pay his creditors, upon attornies, bailiffs and gaolers, and for necessaries for himself and family. There is another observation equally true, which is, that a gaol never reformed any person, but has made many honest men become knaves. The corruption of morals in gaol I have taken notice of in a former publication on the State of Gaols in London, &c.

As the motives of an opposition to the liberty of a person, who makes a candid surrender of all his effects upon oath, can proceed only from malevolence, revenge and barbarity, no opposition should be admitted by benevolent and
judicious

judicious magistrates, and the creditor should be compelled to take the debtor's effects. What can a man give more than all he possesses? This opinion, or rather axiom, gave rise to the laws of bankruptcy; yet a malevolent, vindictive creditor will persist in persecution; but humanity and good policy call aloud for interposition in so barbarous and impolitic a custom.

. While nations are solicitous for the encouragement of sciences, arts and arms, multitudes are rendered useless to their country by an imprisonment, which no law can justify, no religion reconcile, no morality countenance, no reason approve.

Upon the information of a creditor given upon oath, that he has reason to believe that the debtor has a design to leave the kingdom, then it should be lawful to confine the body 'till he discharge the debt, find bail, or otherwise settle the matter.

One inconvenience which at present attends the debtor should be obviated. If a litigious man opposes his distressed debtor's taking the benefit of an insolvent act, and gets people to swear that he was guilty of fraudulent practices, which he may easily do, as there are many to be found who make a trade of swearing whatever they are directed for five shillings, not being obliged to prove his allegations in a court of justice, he is enabled unjustly and oppressively to detain the debtor in prison for ever. Whoever therefore opposes a prisoner who offers to take the benefit of the act, should be bound
over

over to prove his objections in court, and a prisoner so opposed and remanded back to prison, should not be allowed to appear a second time, but his cause being heard in a court of law before a judge, should be determined by a jury, and the prosecutor summoned to appear.

None should be suffered to remain in gaol above ——— months; if he does not in that time chuse to make a *cessio bonorum* to his creditors, he should be considered as a felon, and subjected to hard labour; for nothing but an intention to defraud could induce a person to remain longer in gaol.

To prevent litigious suits and false actions, the plaintiff should be obliged to find security to go on with the suit, under a certain penalty.

By the frequency of oaths, and the very superficial and indecent manner of administering them, they are become a mere unregarded formality, and experience proves their inutility. Some make a trade of bailing people, and swear themselves worth so much, when at that very time they have not perhaps a shilling in the world. They appear so often in our courts of law, that their faces must be known there; but the law does not authorise a judge to refuse a man's oath, though in his conscience he believes him perjured; and our laws are so severe against debtors, that a judge may think himself almost justified in overlooking such practices.

It is also absurd to take a bankrupt's oath, except a very severe punishment is annexed to perjury in such cases. When interest speaks,
religion

religion is generally silent; and the nature of an oath will make little impression on a man who is wicked enough to keep up, or fraudulently convey any part of his property with an intention to rob his creditors. To administer an oath to such a person, serves only to make him add perjury to fraud; and it is folly to think that a man will become his own accuser.

To prevent any fraudulent conveyance, assignment or gift made by the debtor, in order to defraud his just creditor of the whole debt; all concerned in such iniquitous transactions, both the attorney, the person to whom the effects are conveyed, as well as the conveyer, should be guilty of felony, and registered as a felon; and each should have a power to convict the other, and a reward established by law should certainly be given to the discoverer. The creditor or party aggrieved should likewise have a power, at any future unlimited time, to bring the suspected party before a judge, and have each separately examined, giving the parties so examined a certain allowance for their time and trouble, which should be paid upon examination, if the debtor acquits himself to the satisfaction of the judge.

Attornies who make these fraudulent conveyances, are commonly very unworthy and necessitous people; and being for some misconduct struck out of the list of acting attornies, they make use of another person's name, who receives part of the emolument. And that there

there should be such men in the profession cannot be wondered at, when there are, it is supposed, about forty thousand concerned in the law in this kingdom.

Sometimes attornies clerks make these conveyances under the direction of their masters, who, when called to an account, exculpate themselves, by saying that it was the act of their clerk, and done without their knowledge. But when it is made felony in every party concerned, then a check will no doubt be given to such practices.

In this observation I mean no reproach to that honourable profession, in which there are many honest and respectable gentlemen. The species of beings I mention are the dirty minions of fraud and cruelty.

As the law now stands, a man may, and very often does, make a very considerable fortune, and sets his creditors at defiance. Some of the most common frauds now practised I shall enumerate for the benefit of the public, that they may guard themselves against them.

Buffing bail, as it is termed, is done in the following manner. Attornies for defendants are obliged to serve the plaintiff's attorney with regular notice that bail will be justified at such a particular time. The defendant's attorney sends two people at a time they suppose the plaintiff's attorney's chambers or office are shut; the one puts a paper containing such notice into the key-hole, or under the door; the other seeing him do it, immediately takes the said

paper away ; the one afterwards makes affidavit that he did leave such a notice, and the other swears he saw him do it ; but they do not inform the court that the notice was taken away immediately by a string previously fastened to it, and that the attorney could not possibly know of its being served ; by which means exceptionable bail are often passed without opposition, and even without the plaintiff's attorney knowing any thing of the matter.

Queer bail is putting in bail in term time for a considerable sum less than that in the writ, and afterwards leaving the kingdom. This is often done through the inattention of judge's clerks not examining the bail-book. The bail who justify in the above cases are always hired, and are either Jews, or else tradesmen in desperate circumstances, though at that time not publicly known to be so ; but when the plaintiff proceeds against them, they are either become bankrupts, which clears every thing, or have left the kingdom. Should the defendant run away, and the sum bailed be either not considerable enough, or the bail's circumstances not yet ripe for a bankruptcy, they procure some person, similarly situated with themselves, to swear that the defendant died at such a time and place, where it cannot be disproved, therefore could not be delivered up, although the swearer never saw the defendant in his life. The whole expence falls upon the plaintiff, without obtaining any benefit. This is not done till the bail have put the plaintiff to every expence in their power,
and

and kept the suit against themselves defended as long as they can.

Queering of bail, is when the defendant offers good and justifiable bail, but the plaintiff's attorney procures people who will not only swear that the above *queer bail* are hired for that purpose, but they will also swear the most unexceptionable bail are hired, though they themselves know nothing of the parties, and never heard of them 'till that moment: on their oath, however, the court refuse the bail, by which means the defendant loses his liberty, which he is entitled to by law, and remains in prison.

Persons who act as attornies will procure an affidavit of a fictitious debt, for a capital sum, to be sworn against an innocent man, and will afterwards declare against him; by which means many honest men have been plagued and harassed for about thirteen months, perhaps imprisoned all that time, and ruined in consequence thereof. By these means a man may be proved a bankrupt, &c.

Some tradesmen sell goods at a nominal value per bill of parcels, and allow a large discount on payment; instances of which have been known as high as 75 per cent. When these tradesmen happen to be creditors to bankrupts, they oftentimes are allowed to prove their whole debt at its nominal value, by which means, should the estate pay only five shillings in the pound, a creditor in such a case would receive his whole money, and a fair trader only a quarter. By these large nominal debts they often get chole
 1 2 assignees,

assignees, and should they receive more than their real debts, allowing the discount, the bankrupt must acquiesce, in hopes of getting his certificate signed.

These discounts were first introduced by factors who buy by commission for others ; when they bargain for 30, 40, or 50 per cent. discount, they often allow a much smaller discount than they receive. This originated at Birmingham.

Public auctions are in many respects of great prejudice to the fair trader ; for men in desperate circumstances buy goods of any sort on credit, and immediately send them to those auctions, where they are sold for ready money much under prime cost ; a practice which answers the present wants of the seller, but renders him unable to pay the manufacturer, and at the same time undersells the regular and fair trader.

Commissions of bankruptcy of late are only a cover for designing men to cheat their just creditors. When a man, or a combination of men of desperate circumstances, have by various means obtained credit to a considerable amount, and the time of payment comes near, then a friend takes out a statute ; but before that time, the bankrupt, if he acted singly for himself at first, enters into a combination with others of his own stamp, and they circulate and exchange nominal securities, notes and acceptances, among their confederates, to the full amount of four-fifths more than he owes to his just creditors ; although they never gave any real value
for

for them, yet these pretended creditors swear to and prove their pretended debts to be just under the commission, in consequence of which they obtain enough to sign the bankrupt's certificate, who enjoys his liberty in defiance of his just creditors. They are often appointed assignees; and when they get the effects into their hands, become bankrupts in their turn on the same principles, and the just creditors, who trusted them for goods really sold and delivered, are cheated out of their whole property, and the bankrupt bids them defiance, as his certificate is signed by the above creditors, who make up both number and value, as by law directed.

Fraudulent money-brokers are those who raise money on bonds, or other security. When they are applied to by people in present want of money, who are obliged to receive it on almost any terms; if the security they produce be approved of, the lender then pretends that he has not above half the money by him, but from a seeming anxiety to relieve the borrower, tells him that he has goods by him (the particulars of which he mentions) which he might have, if he could tell how to turn them into money, and at the same time names a person who he thinks would buy them. This person, who is the money-broker's agent, is applied to; he, after starting many difficulties, agrees to take the goods, often at 25 per cent. loss to the borrower, whose necessity obliges him to submit. The pretended buyer takes the word of the lender

lender as to the quantity and value of the articles, and the delivery thereof, the distressed borrower returns with the money, and the two knaves enjoy the thought of having obtained extravagant interest, and at the same time evaded the act against extortion, &c.

Others, who have by them the full sum of money wanted, accept no more than the lawful interest; but their agent, for they never act without one, informs the borrower, that if he means to be in favour with the lender, and secure his future friendship, he must buy some small article of him, and not stand for a few shillings in the price; the borrower complies with the proposal, and gives perhaps ten times the value, in proportion to the sum lent. Thus they evade the statute against usury.

Sometimes they undertake to get a friend to discount the borrower's own notes for the sum wanted at a long date. Accordingly they take the notes, and perhaps next day return with advice that all their friends are short of cash, but, in order to serve him, they have obtained some notes and acceptances of men of great property, which become due in a few days. The needy borrower thinking the time short, takes these notes instead of money; but by the time they become due, the drawer, acceptor or indorser, run away, or become bankrupts, and the notes are never paid; but when the borrower's notes are due, he must pay them, the law not being able either to protect him or punish the agent.

There

There are many in this metropolis who take houses, and furnish them on trust. From their appearance for a time, they pass for men of worth and property, and get into extensive credit; when they can go on no longer, and the time of payment draws near, they abscond. The creditors, when they come to examine into the state of their affairs, find people in possession, under the strength of a bond in judgment, granted to a friend who never trusted them one shilling. That friend, who is commonly one of the gang, immediately sells or takes away all the property, and sets the real creditors at defiance; and as there are no effects left to defray the expence, they seldom find it worth while to take out a commission of bankruptcy.

To enumerate all the frauds practised by swindlers and sharpers of every denomination, would be endless. What I have now enumerated are the principal, and most commonly practised. But the following clauses, if inserted in any future insolvent act, will, it is hoped, entirely destroy the fraudulent system in use at present, relieve the innocent, though unfortunate debtor, from the miseries and cruelties to which he is now exposed, and secure the rights and properties of the creditor, by drawing the line between both as equitably as possible. When new evasions are found out, additional clauses will then become necessary. Before any act of this kind takes place, the prison-doors should be thrown open by an act of grace;

grace ; after that, people will not be so fond of the trade of going from gaol to gaol, and the prisons will then be as empty as they are now crowded. There are at this time between four and five thousand prisoners for debt in England, five-sixths of that number are fraudulent debtors, who followed some of the iniquitous practices already mentioned as long as they were able ; when they can carry on their trade no longer, and some of their frauds are likely to come to light, they run to gaol not empty handed, where they live in luxury and riot, declare open war against every law of God and man, and lay aside all rules of decency and good order.

They are more wicked and abandoned in their nature, and are more dangerous to society than the thief, highwayman, or even house-breaker. Besides following the arts of fraud, as honest men do their lawful occupation, they, like the devil himself, endeavour to make every man that is carried to gaol as wicked as themselves, by teaching him the arts and iniquitous devices they so successfully practise themselves. Too many listen to such doctrines, and lose in gaol what they never recover, and we often find a prisoner for debt returning to gaol as a felon. It is therefore of the utmost consequence to the state, and the particular duty of the legislature, by every regulation their wisdom can suggest, to prevent the honest industrious, though unfortunate debtor, from being forced into such company, where few have virtue enough to preserve their integrity.

CLAUSES

CLAUSES extremely necessary in any future Act of Insolvency; with the **REASONS** for such Clauses as are not self-evident, subjoined by way of Note.

I. Be it enacted, that the first imprisonment for debt shall continue forty days, and till the quarter-sessions or first adjournment thereof; which forty days shall begin immediately on application being made to a justice of peace for a warrant to the gaoler to bring the insolvent to be cleared.

II. That no person shall receive benefit from this act a second time, before the expiration of four years from the last clearance; and any person taking the benefit a second time, shall continue in gaol four months after application for a warrant to be cleared.

III. That no person shall receive benefit from this act a third time, before the expiration of ten years from the last clearance; and the time of imprisonment, for the third time of taking the benefit, to continue one year after application for a warrant to be cleared.

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IV. That

IV. That no person shall receive any benefit from this act more than three times, under any pretence, except as hereafter mentioned.

V. That if any insolvent shall come to any unavoidable loss by floods, sea or fire, he shall be entitled to the benefit of this act on the same terms as in the first clearance, although he had received the benefit once, twice, or three times before.

VI. That an insolvent may receive the benefit of this act a second and third time on the same conditions as at the first time of clearance, provided he obtain the consent of four-fifths, both in number and value, of his creditors.

VII. That an insolvent may receive benefit from this act a fourth and fifth time on the same conditions as at the first time of clearance, after the expiration of one year, provided the debts were contracted for necessary food, raiment and rent, for himself and family, the whole not exceeding one hundred pounds.

VIII. That all insolvents, intending to take the benefit of this act, shall advertise three times in the London Gazette, the first time being at least thirty, and the last at least ten days before the quarter-sessions, or adjournment thereof.

IX. That

IX. That every prisoner, being under execution one month, shall be obliged to take the benefit of this act in the full extent and meaning thereof, at the request made in writing, and signed by two creditors, whose debts singly amount to twenty pounds or upwards; on refusal, shall be deemed a felon, and his effects shall become the property of all his creditors.

X. That no person be appointed assignee to the insolvent, or have any vote in any thing that concerns him, except they are creditors for goods only, which must be proved as to time, quality and delivery, and where delivered; but holders of notes, bills, bonds, or acceptances for notes exchanged, or money lent, shall not be assignees, or have any vote for or against the insolvent in any respect whatsoever. (A)

XI. That any insolvent, in actual custody, who acknowledges the debt for which he is imprisoned to be just, may, at the expiration of fourteen days after commitment, advertise in the London Gazette, and in one other newspaper published near the place of confinement, but within the same county where the gaol

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stands,

(A) These being transactions of so private a nature, are often made use of to create fraudulent debts, by which number and value are obtained to answer fraudulent purposes.

stands, except in the bills of mortality, where he may advertise in one of the London papers, that he has lodged the schedule of his effects in the gaoler's hands for the inspection of his creditors, and that he intends to take the benefit of the insolvent act at the quarter-sessions or adjournment thereof.

XII. That every creditor who intends to oppose the clearance of any insolvent, shall first lay a detainer, (B) and then give seven days notice of such intended opposition, and on what grounds he intends to oppose, to the marshal or gaoler, who shall give a (C) receipt for the same, and shall deliver the said notice immediately to the insolvent, under the penalty of one hundred pounds for each refusal or neglect; and the insolvent shall give the gaoler a (C) receipt for such notice being served on him, or be confined in a room, on an allowance of bread and water, until he comply.

XIII. That

(B) The reason for this clause is, by the last insolvent act, any person might oppose and have the prisoner remanded back to gaol, where he might lie for ever. For as no action lay in the office against the prisoner, he had not an opportunity of bringing it to trial, and by that means was deprived of the means of obtaining his liberty by supersedeas, the Lords act, or any other way.

(C) This is better than bringing witnesses, who are to be obtained for a small sum to swear any thing of that kind (which they call buffing) as the punishment for perjury is so slight; but when by this clause it is made forgery, and the consequences of detection are death, few will chuse to run that hazard.

XIII. That all oppositions in court shall be made by council only, and that at the request of a creditor of ten pounds or upwards in writing, delivered to the council, to be produced in court by him.

XIV. That if any creditor shall oppose, and consequently lay a detainer; and the insolvent shall chuse to submit to trial before he claims the interposition of the justices, the plaintiff shall regularly proceed, without any abatement or lapse of time, or, in failure, to pay treble costs, and all fees, lodging, &c. and the defendant shall for ever be cleared of that action.

XV. That all gaolers shall give four days notice in writing to the clerk of the peace for the justices inspection, of all that are to be opposed at the time of clearance.

XVI. That if any debtor be remanded by the justices, he may summon his opposing creditor before a judge three times, to shew cause why he should not be discharged; and the creditor shall be obliged to attend one of the three summons, and shall inform the prisoner in writing, twenty-four hours before, which summons he intends to obey, and shall take a receipt (D) of the prisoner of such notice being given him; and

(D) To prevent perjury, which in those cases is called Buffing. See (B) N^o XII.

and to prevent trouble when they attend the judge, both shall be without council, but may bring their witnesses, who, if they refuse to attend, shall be committed by the judge to the county gaol, for any time not less than one, or more than three months. If the judge grant a discharge, it shall be final; but if he refuse to discharge the prisoner, the judge shall appoint another attendance, when both debtor and creditor may be allowed council. The time for the second examination shall not exceed one month; and if the prisoner be not discharged, he shall not be remanded from whence he came, but shall be committed to the county gaol, to be tried for a fraud as a felon. If the creditor neglect to attend on the second examination, the judge shall discharge the prisoner.

XVII. That if any prisoner be committed by the judge, to be tried as a felon, it shall be lawful for the jury, according to the nature of the case, to bring in their verdict, either that the prisoner obtained the goods under false pretences, or that he disposed of the goods so obtained in a fraudulent manner, with an intent to defraud his just creditors; and it shall be deemed fraudulently disposing of effects if he buy them on credit and sell them for ready money on short credit by auction, or any other indirect way, by any agent, for less money than he agreed to pay for them, except he give satisfactory reasons to the jury why he did so. It shall also be deemed fraudulently disposing of effects,

effects, if he make or convey away by judgment, bill of sale, or any other way, to less than three different creditors, whose debts amount to upwards of twenty pounds each, and that for the benefit of all the creditors; and if the granter absent himself from his creditors in less than six months after these obligations are put in practice, or claims, or is compelled to take the benefit of the insolvent act, or is confined in prison upwards of thirty days within six months after executing such obligation.

XVIII. That any person or persons becoming possessed of another's property in consequence of the above obligations, shall, on the application of two creditors, whose debts amount to twenty pounds or upwards each, be obliged to give sufficient security for the value of the effects so obtained, that if the debtor falls within the meaning of the above clauses, the money shall be forthcoming for the benefit of all the creditors; if they cannot find security, they shall deliver them to the petitioning creditors, and take security from the said creditors; (E) but if they
absent

(E) This would prevent a common practice of men in desperate circumstances, though not known to be so, who obtain effects to the very extent of their credit; but as soon as they discover that people begin to suspect them, they are afraid to stay to dispose of them themselves, but make them over by the above methods to a confederate, who never trusted the absent debtor one shilling, yet, as the law now stands, he bids open defiance to the just creditors. This they call fighting under the law.

absent themselves with the property so obtained, it shall be deemed a fraud, and they shall be prosecuted as felons.

XIX. That if any person be arrested for debt, the plaintiff shall be obliged to deliver his declaration within three days after commitment, and shall immediately proceed, without any (F) abatement or lapse of time, until the defendant be in execution.

XX. That all insolvents confined in country gaols, who shall have submitted to this act in delivering up their all, and are refused their clearance by the justices, shall, together with their witnesses, be moved by *habeas* to London, to appear before a judge, at the expence of the (G) county, if there be no effects or estate; but if there be any effects or estate, the expences

(F) This would bring the matter to a speedy conclusion for the advantage of both parties; but as the law now is, the defendant may be confined near eighteen months, if arrested in the long vacation, before he can obtain his liberty by trial, tho' perhaps it is a malicious prosecution, and the defendant not indebted to the plaintiff one shilling; when this happens to be the case, the law now affords him no satisfaction, as the pretended creditor, or his agents, are not to be found, or by that time are become fraudulent bankrupts.

(G) This would induce many to deliver up their whole property to their creditors, who otherwise would make a reserve, for fear of an opposition, by which they would be under a necessity of remaining in prison without any hopes of releasement, for want of money to strive for their discharge.

pences shall be paid out of them within one month after being refused his clearance by the justices.

XXI. That any creditor, having proved a debt due to him from the insolvent, shall, at the request of another creditor, whose debt amounts to ten pounds or upwards, be obliged, under the penalty of losing his debt, to give on oath a just account in writing for what, and how the debt became due; and if it shall be proved that he has delivered a false or unjust account, he shall be committed to take his trial as a felon; and if found guilty by a jury, shall be punished accordingly. (H)

XXII. That if any creditor, whose debts amount to ten pounds or upwards, suspect that the insolvent allows or connives at any fictitious or collusive debt, to be proved against him, with an intent to defraud his just creditors, the insolvent shall answer (I) on oath all
L questions

(H) This would prevent any person from claiming a fictitious debt; which is often done, with an intent either to produce number and value to answer fraudulent purposes, or to receive a dividend of the insolvent's effects where nothing is due.

(I) This would prevent the common practice of insolvents, who, not being bound by any such condition in the late insolvent act, evade the effect of the clause, that obliges them to deliver up their all, for the benefit of their just creditors. They screen themselves indeed by delivering up their all, yet they obtain great part back again

questions touching the matter; and if suspected of making a false oath, shall be committed to be tried by a jury; and if found guilty, shall suffer corporal punishment, hard labour and imprisonment, for a long term of years. If he refuse to answer such questions, he shall be deemed guilty, and shall suffer the same punishment.

XXIII. That all persons shall be allowed first to swear to their debts due from an insolvent, without being interrogated; but at any time afterwards shall be obliged to give a just account (on oath) in writing, (K) at the request of any creditor whose debt amounts to ten pounds or upwards, how their debt became due, for what sort of goods, when, where, and by whom delivered; and if it be suspected

again by entering into a combination with others, who prove sham debts, and then share the dividend between them. It is of little consequence to the just creditors, whether the insolvent's property be kept from them, or after being delivered, is taken away by false oaths and debts.

(K) This would deter them from swearing to an unjust or fraudulent debt, or even attempting it, as they would never know when they were safe, being always liable to be tried as a felon for the offence; but as the practice now is, of refusing to let them swear to a suspicious debt, they run no other hazard than that of being sent away without success, and often, from hurry of business or neglect, they succeed; but on this principle they would be afraid to engage in any such undertaking, lest they should go too far to get back. Collusive claims, upon that account, would seldom be made.

suspected that they have sworn to a false or collusive debt, they shall be committed to take their trial, and if found guilty by a jury, shall suffer as a felon.

XXIV. That if any two creditors, whose debts amount to twenty pounds or upwards each, shall at any time think there has been any fraud committed by any insolvent cleared by the act, or by any other concerned for or with him, they may at any time summon any of the suspected parties, together or separate, before a justice of the peace, who shall immediately examine them, on oath, touching the matter; and if found to have fraudulently secreted or received any of the insolvent's effects, they shall be committed to take their trial; and if found guilty by a jury, they shall suffer as felons; and if any person offers to become evidence, he shall be admitted; and, on conviction of one or more offenders, shall be entitled to his own pardon; and if any accomplice (L) shall voluntarily come and give information, he shall be entitled to fifty pounds reward, to be paid by the county, besides his own pardon, on conviction of one or more of the parties; but if he attempt to

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stifle

(L) This would effectually prevent any fraudulent combinations, as the dread of their own security, and the temptation of the reward, would make them continually jealous of each other; and on the least disagreement, which is always the consequence of villainous combinations, one or other would immediately make a discovery, which would soon deter others from the like practice.

stifle any part of his evidence, or screen any of the offenders in preference to the others, he shall lose the intended benefit of this clause, and shall be committed as a principal, and suffer accordingly.

XXV. That if any insolvent or suspected person shall, on examination, be found innocent, the person so examined shall receive immediately from the suspecting creditors one guinea for the first examination, two for the second, and three for the third; and shall increase one guinea each time of examination, which shall be as often as the creditor shall think proper. (M) But after the first examination, they shall receive the different sums they may be entitled to, before they shall be obliged to answer any questions; but if, after having the money tendered to them, they shall refuse to answer any questions that may be put to them, they shall be deemed guilty of fraudulently receiving the insolvent's effects or estate, and shall be committed to take their trial for such offence.

XXVI. That

(M) This may seem hard and unjust, but it is too well known that those transactions are conducted with so much art, that though the creditors may have very good reason for suspicion, yet they may fail of that proof which future time may produce; and as the reward increases every time, it will come too heavy to be often repeated, as the examination of any one person ten times would cost the creditor fifty-five guineas.

XXVI. That any persons, so examined by different creditors on the same insolvent's affairs, shall receive the same emolument as if examined by the same creditors as at first. (N)

XXVII. That any person, cleared by this act, shall not, under any pretence, carry on any trade, business or manufacture, on the same premises he did before his clearance. Neither shall he act or conduct business in any other name, (O) or continue as clerk, agent, steward, surveyor or servant, or in any other respect inhabit or occupy the premises for the emolument of himself or any other person, under the penalty of all his former debts, except he shall produce a certificate expressing the consent of four-fifths, both in number and value, of his creditors, (P) for goods or labour only,
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(N) Otherwise they may be examined by different sets of creditors, and each person receive only one guinea for each repeated examination.

(O) This would prevent the common practice of men laying out large sums of their creditors money on farms, buildings, erecting mills, &c. on premises of their own, or where they have long leases, which they make over at a convenient time to a friend, then take the benefit of an act, and immediately have it returned to them, and carry on business in open defiance of their defrauded creditors.

(P) This is an indulgence that would be granted only to men of fair and honest characters by the only people who can be affected; therefore cannot be thought unreasonable or unjust, but would rather be an inducement
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as in N^o X. When such certificate is signed by a sufficient number, the insolvent shall sign an affidavit that the above are all the real creditors of whom he had received goods to the amount of their several debts, for which they had received no other payment than what was produced by his schedule. If the insolvent makes a false oath in this case, he shall suffer as a felon.

XXVIII. That any attorney or others making any bond, bill of sale, or other conveyance, from an insolvent, while in actual custody, to any other person, of the property of the insolvent, to which conveyance a wrong or false date is put with a fraudulent intent, such attorney or others shall suffer as a felon; and any insolvent signing such fraudulent conveyance, while in actual custody, or out on bail, shall suffer as a felon; and any person receiving such effects, so fraudulently conveyed, with an intention to cheat the just creditors, shall suffer as a felon; and any of the parties concerned in such unjust conveyance, or any other person, may at any time give information, and, on conviction of one or more, be entitled to his own pardon, and a reward of fifty pounds, to be paid by the county. And if such person should give information of any particular

to men concerned in useful, though not in successful undertakings, to act on open and just principles, in hopes of obtaining their creditors consent to make a second trial, which often proves fortunate, tho' the first miscarried.

cular estate or effects so fraudulently conveyed from the insolvent, it shall lie on the present possessor or owner to prove how he came by them, and if they have been conveyed or passed through more hands than one, then each possessor or owner (Q) back to the insolvent shall, under the penalty of transportation to Africa, be obliged to prove in what manner he came into his possession, and what value he gave for them. But if any insolvent should be so situated, that deferring the sale of an estate, annuities or effects, may greatly diminish the value thereof, it may be lawful for him to dispose of such effects, while in actual custody, or out on bail, in an open and just manner, and the money so received shall be paid into the hands of a master in Chancery, and there to remain till the insolvent be discharged in a public or private manner. This last clause shall not extend to book-debts and transactions in trade, on condition a fair and just account shall be given when the insolvent comes to be cleared; and if the said insolvent shall pay any money into the hands of a master in Chancery for estates, leases or annuities, he shall make oath that it is the full sum received by him, or others for him, without

(Q) If this clause were not introduced, the present possessor would say, he had not received them from the insolvent, but from others, who, perhaps, are only nominal persons, on purpose to break the chain of enquiry, with an intent to frustrate the means of coming at the truth.

without any collusion whatever; and if he swears falsely, he shall suffer corporal punishment, hard labour and imprisonment, for a long term of years; and any purchaser of any such estates, leases or annuities, shall, at the request of any two creditors, whose debts amount to twenty pounds or upwards each, be obliged, on penalty of transportation, to answer all questions, on oath, touching the matter, and if found guilty of making a false oath, with a fraudulent intent, shall suffer as a felon.

XXIX. That no holders of bills, bonds, notes, indorsements or acceptances, or any other securities, shall have any vote, directly or indirectly, in any of the insolvent's affairs, either for or against him, except it shall be proved that those bills, &c. were given or paid in consideration of goods sold and delivered, the sort of goods, quantity, time, place, and by whom delivered, shall be proved on oath. But those bills, bonds, &c. given for money lent, or notes or nominal value exchanged, shall have no vote, (R) but shall be

(R) The reason for this is, that money transactions and exchange of nominal value are of so private a nature, that when fictitious, it is impossible to distinguish them from real, if the parties mean to defraud; as we daily see practised by fraudulent bankrupts, who obtain number and value to sign their certificate, and by timeously circulating their fictitious bonds, bills, &c. amongst their confederates, obtain not only their liberty in defiance

be proved as debts, and shall entitle the holders to oppose the clearance of any insolvent, if they can shew just cause for so doing.

XXX. That if any justice of the peace shall be a creditor of the insolvent, who is opposed, he shall leave the court while that prisoner is on his clearance.

XXXI. That gaolers, out of term-time, may let the prisoner have the same liberty as when bailed, on receiving security for debt and costs to their satisfaction.

XXXII. That any plaintiff, who shall arrest his debtor for ten pounds or upwards more than he can prove in court to be his just debt, shall pay all costs and fees, and have an action brought against him for false imprisonment and perjury. (S)

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XXXIII.

defiance of justice, but also receive a share of the dividend coming to their fraudulent associates out of bankrupts effects, although they never trusted him one shilling. They likewise by this means, as I already observed, often become assignees, and get the whole property into their hands, and then become fraudulent bankrupts in their turn, and by delay, evasion and false swearing, the real creditors never receive any dividend at all.

(S) This would prevent what is often practised by a revengeful creditor, who takes out his writ for a larger sum than is due, purposely to injure the debtor, who must find bail for the sum mentioned in the writ. Perhaps he could find a friend to bail him for a small sum, but not for a large one, by which he loses the benefit of his

XXXIII. That if any officer arrests a person, and has at that time more writs than one against him, he shall produce them all; and if the defendant settles or bails them, he shall not be detained under pretence of searching the office, or for any other cause whatever; and this act shall indemnify the officer for such discharge. (T)

XXXIV. That if any person be arrested, and settles that action while he is in the officer's custody, and, in consequence thereof, is discharged, the officer shall give the defendant a certificate mentioning the exact time that he discharges him, for which the defendant shall give him a receipt, and the officer's receipt shall indemnify the defendant from any other arrest till after the expiration of

his liberty; and as the custom now is, if the plaintiff, on trial, proves enough due to him to amount to the sum limited in the writ, he incurs no penalty, although the defendant has been so much injured by his excessive demands.

(T) This would prevent many and great inconveniences to men in trade, who often settle the first action, and few know any thing of the matter, not even their own servants; but the method now is to detain, under pretence of examining the office, or in reality to extort a present to the officer, with which if the prisoner does not comply, he is detained all night, and sometimes from Saturday till Monday; during all that time the officer employed to find out other creditors, and prevails on them to bring another action, which often entirely ruins the debtor.

of twenty-four hours. (U) Any officer offending in this or the foregoing clause, shall forfeit one hundred pounds to the defendant for each offence, besides the loss of his office.

XXXV. That no debtor, a native of Great-Britain, shall be arrested unless he has previous notice given him at least fifteen days before, which notice shall be personally served on him by the officer, who shall take a receipt (X) of such notice being served on him; which if he refuses to give, the officer shall take him immediately into custody, but shall discharge him as soon as he gives such receipt. But this clause shall not extend to foreigners.

XXXVI. That if any person absents himself, after such notice being served, without settling the cause of action, it may be lawful for the plaintiff to advertise him in the fullest manner, and offer a reward for apprehending him :

(U) This would enable the debtor to return home and settle his affairs; and, if necessary, might call his creditors together, submit to their direction, and surrender up his all, without any expence, for their benefit: whereas if a man has one action on the back of another, he is conveyed to a prison, where he meets with numbers, who, from experience in the arts of evasion, inform him how to conceal his effects, which information (being then warm with resentment) he follows, to his own ruin and his creditors loss.

(X) This would prevent officers from practicing what is called bluffing, or swearing they have delivered such notices, when they did not. There are many officers who would be forward enough to swear to any thing of that kind.

him; and he may be taken at any time the same as on an escape.

XXXVII. That this act shall not discharge debts due to servants for wages.

XXXVIII. That any insolvent cleared by any former act, who has made over his property in a clandestine manner, shall be pardoned on condition (Y) of making a full discovery to the clerk of the peace of the county wherein he was cleared, within twelve months from the date hereof, and shall be entitled to a reward of twenty per cent. on all the property so recovered, provided such reward does not exceed two hundred pounds. That any person to whom such effects have been made over, or have any ways become possessed thereof, shall be entitled to the same reward; but on neglect or refusal thereof, after that time, they shall suffer as felons. That any attorney, concerned in making over or conveying any such estate, annuities or effects, who does not give notice to the clerk of the peace,

(Y) This would bring to light many dark transactions; for many, who received the property under pretence of returning it after the insolvent was cleared, now keep it for their own use; by which means the deluded insolvent becomes revengeful, and would immediately give information, as it is reasonable to believe he would rather wish to see any other person in the possession of the property than those who have got it. But as the law now stands, he cannot give information, but must quietly put up with the loss.

peace, where such insolvent shall be cleared, shall be for ever struck off the rolls of acting attornies ; and if he afterwards practises under another person's name, every attorney so lending his name shall be also struck off the rolls of acting attornies. And if any insolvent shall have detained more money than was allowed by act of parliament, and shall have spent it, such insolvent shall be imprisoned one year in the county gaol for every hundred pounds, and so in proportion for all the money he shall have spent. And every person giving information where there are effects not produced, not amounting to the reward of fifty pounds, shall have that sum made up, on conviction, by the county, provided the informant was noways concerned in the fraud.

XXXIX. That no gaoler, clerk of the papers, clerk of the peace, turnkey, or any other officer employed by them, shall in any respect be concerned in writing out any schedule, or in any other way whatever, directly or indirectly, act in the clearance of any prisoner otherwise than by this act directed, and they shall make oath that neither they, nor any employed under them, to the best of their knowledge, have ever acted openly or secretly in forwarding or hindering the clearance of any insolvent, under the penalty of five hundred pounds for each offence.

XL. That

XL. That no gaoler or keeper of any prison shall ever become a prisoner in the Fleet or King's Bench, or rules thereof, but shall be confined for debt in the county prison only; neither shall they receive any benefit from this act for debts that may become due from them for the escape (Z) of debtors under their care, unless such escape was effected by open force in the day, or breaking prison by night; in which case the prisoner so obtaining his liberty shall suffer as a felon.

XLI. That any person, who has within twelve months of commitment at any one time, lost or won more than ten pounds by any sort of wager, racing, gaming or stock-jobbing, shall be excluded the benefit of this act.

XLII. That no person shall receive any benefit from this act, who shall have, within twelve months before commitment, disposed or conveyed any estate or money in the funds to the amount of one hundred pounds or upwards, and doth not give a satisfactory account thereof at the time of his clearance.

XLIII. That

(Z) This would prevent gaolers from conniving at the escape of others for a sum of money, and then becoming prisoners in their own gaol till an act clears them.

XLIII. That no person shall receive any benefit from this act, for debts that arise from running away, and leaving their family chargeable to the parish.

XLIV. That no person shall receive any benefit from this act, if it can be proved that he has, within the last seven years, been fined, or justly imprisoned for offending the custom-house, excise, revenue, or laws relating to contraband goods.

XLV. That no person shall receive any benefit from this act, who can be proved to be hired or common bail; and it shall be deemed common bail, if he bails or finds bail for more than one person each term.

XLVI. That no person shall receive benefit from this act, who stands convicted on record, or is under prosecution for fraud, perjury, or any other criminal act, whereby he may become liable to the criminal laws of this kingdom.

XLVII. That no attorney shall receive any benefit from this act, who has ever been struck off the list of acting attornies by order of court.

XLVIII. That no person shall receive any benefit from this act, who is guilty of breach of trust to the amount of ten pounds or upwards.

XLIX. That

XLIX. That no person shall receive any benefit from this act, who obtains money from others under pretence of procuring employments for them, and neglecting or failing therein, keeps the money for his own use.

L. That no carrier or other shall have any benefit from this act, who is entrusted to carry goods for another, and keeps them for his own use.

LI. That no person shall receive any benefit from this act, who obtains bonds, bills, notes or acceptances, under a pretence of discounting them with cash; but in place of that, produces notes of insolvents or common cheats at a short date, which he exchanges with the person who wants the cash, and immediately circulates his bonds, notes, &c. (AA) Except the person who obtains the above notes, &c. which he so exchanges, indorses and pays them within six days after they become due, then it shall clear him of this objection; but it shall lie on him to see that the notes given in exchange are paid when due. (BB)

LII. That

(AA) By the time the notes which the borrower receives become due, the drawer, acceptor and indorser, run away, become bankrupts, or are in prison; but he is obliged to pay his own notes when they become due.

(BB) Otherways it may so happen, that he is not to be found by the person who has the notes in possession.

LII. That no person shall receive any benefit from this act for debts contracted while they live in ready furnished houses ; but this clause shall not extend to lodgers.

LIII. That all debtors now in confinement shall be cleared by this act.

LIV. That this act shall not affect debts contracted before, or within six months after this act passes into a law.

LV. That it shall be felony for any person to swear a false debt against another with a malicious intent. (CC)

LVI. That if an attorney takes out a writ against any person, and does not at all lawful times produce his plaintiff, he shall pay the defendant treble costs, fees and lodging, and be for ever struck off the rolls as an acting attorney. (DD)

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LVII. That

(CC) It is very well known, that on application at most gaols, persons may be found, that for a sum of money will swear a debt against any person whom they never saw or heard of before.

(DD) This would prevent attornies from contriving and prosecuting fictitious debts to be sworn against any person, which is often done ; they then find ways and means to have one of their confederates introduced (mostly at the spunging-house) to the confined debtor, who offers for a sum of money to bail him ; if the prisoner consents, and pays the money, bail, officer and attorney, share it amongst themselves, and the defendant never hears any thing more of the matter.

LVII. That there shall be one, or more if required, general lock-up or spunging-houses, with a table of fees and regulations painted in large and legible characters, signed by the sheriff for the time being, and hung up in the passage immediately leading from the street door, which the bailiff shall read to each prisoner as soon as he is brought into the house; and any bailiff demanding or receiving more than is directed in the table of fees, shall for the first offence pay one hundred pounds, and for the second he shall be disabled from ever acting in that office.

LVIII. That any prisoner shall have a right to remain fourteen days in a general lock-up house.

LIX. That every insolvent be allowed by his plaintiff one shilling a day, after delivering his schedule, to be paid weekly, or the defendant shall be for ever discharged from that action. (EE)

LX. That

(EE) If this be not allowed, all the laws that can be made will never induce men to deliver up their all, when they know they may the next day or two perish with hunger, as the law now stands. Nature pleads for perjury, and self-preservation justifies it. To this in a great measure may be imputed the unjust secreting and withholding the debtor's effects from his creditors; for if necessity bids the insolvent keep a little, certainly want and distress bid him keep all. But if he was certain that he could support life in a prison by just means, desperation would not then force him to seek to evade both the law and his creditors interest.

LX. That all bankrupts, who have finished their third examination, shall be allowed one shilling a day by their plaintiff or plaintiffs, from the day of being arrested and in actual custody, till they are discharged, to be paid once a week, or the action shall be for ever discharged. *Vide* N° LIX. (EE)

LXI. That all leases granted to the insolvent shall become the property of his creditors, though clauses were made to the contrary at the time of granting, or afterwards. (FF)

LXII. That if any person find himself so situated, as to require the indulgence of his creditors, either as to time, or accepting of a composition in discharge of their several demands, which the creditors are inclinable to do, the insolvent shall swear to and sign such affidavit relative to his affairs, as shall satisfy his creditors; and if found to have taken a false oath, he shall suffer as a felon.

LXIII. That if any insolvent shall obtain his discharge by means of false oaths and collusive connections, he shall suffer as a felon,
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(FF) This is but just, as it is become a practice to grant leases, &c. either to an ignorant man, or else collusively between landlord and tenant, who lay out other people's money in improving land, houses, &c. and when the tenant becomes insolvent, the improved premises revert to the landlord, and the creditors are either ignorantly or designedly defrauded of the whole.

and his effects shall become the property of his creditors.

LXIV. That all attornies who undertake a debtor's defence, and afterwards find reason to decline the same, shall give him notice thereof, and return him all his papers, although there may be money due to them, at least fourteen days before the ensuing term.

LXV. That all debtors, crown as well as others, be cleared by this act, on complying with its contents.

LXVI. That the inspectors of gaols shall be obliged to answer in writing immediately all complaints made to them by persons confined in gaols.

In no situation of life can a man shine with greater lustre, than while he preserves his integrity unshaken either by the pinchings of adversity, the temptation and opportunity of being dishonest, the frowns of fortune, or the influence of evil company. When we behold such a person struggling with his misfortunes, and making every effort that an honest and industrious disposition can suggest to extricate himself from unavoidable difficulties, it becomes in a particular manner the duty of every one to assist him as far as possible. Under such circumstances, all those possessed
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of any innate goodness of heart and christian pity will not fail to extend their helping hand. But yet I am sorry to observe the contrary practice too common in the world. When a man, though possessed of every virtue that can adorn the human heart, is supposed to be in want of a temporary assistance to support his credit, to pay his house-rent, or to feed himself and family till he can find employment, his professed, but false friends and acquaintances, in place of lending him a few pounds, which at certain times would save many families from ruin, they avoid him as they would a contagion. But no sooner do they perceive him stem the torrent of distress, and, by struggling with his misfortunes, gain ground in the world, and that he has a pleasing prospect of having his honest endeavours crowned with success, than their cold and averted looks are instantly changed into smiles of pleasure and approbation; then they make the greatest professions of willingness to serve that very man whom lately they avoided, as if the plague was communicated by his breath. What an opportunity does such a conduct afford a man of feeling and integrity for contemplation and contempt? It is well known that the timely assistance of a few pounds would occasionally save numbers of families from ruin. Amongst poor families is the greatest distress to be found; the common beggar deserves little to be pitied when compared with the poor housekeeper, who cannot
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beg, and is restrained by a delicacy of sentiment from making his miseries known. Many merchants have become bankrupts from an inability to answer a draught of fifty or a hundred pounds, at the very time that they were really worth some thousands. They rashly run to the Alley in hopes of clearing as much as will enable them to answer their present demand, but unable to wait the proper opportunity, they run all hazards, come off considerable losers, which unavoidably fixes their fate. How many new beginners, with a fair prospect of making a considerable fortune in trade, have all their hopes blasted by a merciless creditor, for a few pounds? Many have their goods seized for rent, which they would have been able to pay in a short time; others cruelly dragged from their houses, their credit blasted, and themselves thrown into gaol for a mere trifle. The society for the relief of poor prisoners confined for small sums, is a very humane and charitable institution; but their charity is sometimes misapplied, and does not so fully answer the laudable intention of the promoters of it. If the same money was given to poor trades people and housekeepers, to prevent their being dragged to gaol, it would be of more service. But a small sum given to a poor man is not of such use as a loan of the like sum; the first is soon consumed, and perhaps part of it goes for things not absolutely necessary; but the other stimulates his industry, and he

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is more careful how he disposes of it, because he knows that some time he must pay it.

A public fund raised by subscription, under the following regulations, for the timely assistance of the honest, unfortunate and industrious, would be a most humane and christian institution, which would bring a blessing upon the head of any person of fortune and consequence that would begin it, and would be regarded by posterity with eternal gratitude.

1. That money be raised at three per cent. which shall not be transferable, but the subscribers shall have their money circulating the same as at another bank, with this difference, that they shall draw, but not at a shorter time than one month after sight, and that in sums of 5, 10, 25, 50, 70, or £.100, or other equal sums, to prevent fractions in interest; that this money in the Bank shall cease bearing interest from the date of drawing; and if either the holder or a member wants the money before it becomes due, they are to allow discount at the rate of 5 per cent.

2. That there be five proprietors.

3. That every member who subscribes two thousand pounds shall have his share of the surplus money, if any, on condition that he join in security to the lesser subscribers for the sums they may advance, and as a security for them, they shall have the examination of the books at stated times.

4. That

4. That every subscriber of two thousand pounds shall subscribe for one year, and at the end of every year shall sign fresh bonds of security; but if he should want his money before that time, he may have his own notes discounted at 5 per cent.

5. That all discount or interest shall be paid at the time of advancing the money.

6. That every subscriber of two thousand pounds, who shall decline becoming security, shall only receive the common interest of 3 per cent. but shall not be entitled to any dividend of the profits remaining after payment of the 3 per cent. or common interest for all sums subscribed.

7. That no money, without pledges, shall be lent or advanced to any person who has not been in trade in the same house three years.

8. That for all sums advanced under fifty pounds, there shall be one creditable person to join in the security, who has lived in the same house three years.

9. That for all sums advanced above £.50, there shall be two persons to join in the security, who have lived in the same house three years.

10. That all persons who borrow, and who join in the security, shall sign bonds and judgments for the payment at the time fixed.

11. That every subscriber of two thousand pounds, who has joined in the security, shall receive and pay all profits and loss, until the expiration of one year from the time of his subscription.

12. That

12. That the account of profit and loss shall be stated four times a year, and that no subscriber shall begin to be entitled to profit, or accountable for loss, till the quarter day after his subscription, except he subscribe within seven days after quarter day.

13. That the interest of three per cent. be settled, but not paid, to the subscribers, at the end of every three months.

14. That the interest of three per cent. be paid to the subscribers at a general settlement at Christmas.

15. That no bills are to commence interest till paid.

16. That every assistant who is a subscriber, shall have one vote relating to the management of the undertaking, for every two thousand pounds he shall subscribe.

17. That all disputes shall be settled by ballot of the principals and assistants, whose votes shall be equal.

18. That the principals shall appoint assistants, who are not subscribers, at a yearly salary.

19. That no sum less than three pounds be advanced.

20. That for every hundred pounds advanced, without pledges, there shall be so many different securities that may be approved, three of which only need be housekeepers of three years standing.

21. That no subscriber shall have any money advanced on any other terms than those here enumerated.

22. That every subscriber shall cease to be entitled to a share of the profit, when he ceases to be an assistant, which shall be if he reduces his capital under one thousand pounds for a longer time than three months at one time, or each time nearer to the other than three months.

23. That no sum shall be advanced for less time than one month, and for more than twelve months, without renewing the bonds or securities.

24. That all pledges unredeemed, and where the party does not renew the security, shall, after the termination of one year, be considered as a part of the public fund, and sold by public auction.

If this plan be too enlarged, I would earnestly recommend the institution of a subscription for the relief of poor housekeepers, and others, not common beggars, similar to that for the relief of poor prisoners.

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